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REPORT

OF

Commissioner of U. S. General Land Office,

UPON THE CHARGES OF

OFFICIAL MISCONDUCT

OF

J. R. HARDENBURGH,

U. S. SURVEYOR GENERAL FOR CALIFORNIA.

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Department of the Interior,
General Land Office.
Washington, D. C., Sept. 19th, 1873.

Hon. Columbus Delano, Secretary of the Interior:

Sir—I have the honor to forward herewith for your consideration the report of Mr. M. B. Robinson, Special Agent, appointed by me to investigate certain charges against Surveyor-General Hardenburgh. The report is accompanied by a large number of affidavits, for and against the Surveyor-General, and also Mr. Hardenburgh's explanation and defense.

These affidavits are contradictory, and in many instances irrelevant, containing statements and opinions that have no bearing whatever upon the question of Mr. Hardenburgh's official conduct or misconduct. Therefore, in submitting this report, I shall endeavor to confine myself to a consideration of such statements and facts as relate more directly to the manner in which Mr. Hardenburgh has conducted the affairs of his office.

The charges made in the affidavits filed in this office, or with Mr. Robinson, are substantially as follows:

CHARGE I.

That Surveyor-General Hardenburgh corruptly, and for a consideration, decided against the claim of the State of California in the Sierra Valley swamp land case.

This charge is made by W. S. Chapman, who states, that after the time for taking the testimony had been fixed by the Surveyor-General, but before any testimony had been taken, Hardenburgh, well knowing his (Chapman's) interest in the said case, applied to him for a loan of $2,000; that he was unwilling to make him the loan, and is informed and believes, that he then obtained the money from the people in Sierra Valley who were opposing the the said claim. That after this, but before any testimony had been taken in the matter, Hardenburgh told him he must "go slow" in the Sierra Valley case, as he had information, and was satisfied that the land was not swamp land; and that he believed that if he had made the said loan to the said Hardenburgh, and responded to such further and additional calls as he should have made upon him, Hardenburgh's action in the Sierra Valley swamp land case would have been different, and, as far as he is concerned, the claim of the State would have been recognized.

Mr. Hardenburgh, in answer to this, files a number of affidavits from parties who were present at the investigation of the Sierra Valley swamp land case, tending to show that he acted impartially and in good faith in the matter; and also denies the statements of Mr. Chapman.

This charge was substantially made at the time I was considering the appeal from the decision of the Surveyor-General in the Sierra Valley swamp land case. I then acquitted Mr. Hardenburgh of any improper conduct in the matter, and as nothing new of importance has been elicited in the investigation made by Special Agent Robinson, I am still of the opinion that the charge that Mr. Hardenburgh acted corruptly in the matter, is not satisfactorily proven.

CHARGE II.

That Surveyor-General Hardenburgh delayed the approval of surveys made by W. H. Carlton, Deputy-Surveyor, unreasonably and improperly, thereby keeping him out of the money which he had earned.

In relation to this charge, the evidence shows that there was unusual delay, but it is accounted for by the fact, that the Surveyor-General desired to have the surveys specially examined for the purpose of ascertaining whether the segregation of swamp land was correctly made or not. This, though resulting in hardship to Mr. Carlton, cannot be regarded as improper.

CHARGE III.

That about the first of August, 1872, Surveyor-General Hardenburgh, pursuant to an arrangement entered into between C. E. Pickett and W. P. Casey, by which said Casey was to pay said Pickett one-third of his salary, appointed said Casey to the position of draughtsman in the Surveyor-General's office, and subsequently, when the said Casey re-

fused to pay the said Pickett one-third of his salary, removed the said Casey from his position.

The affidavit of Casey, making this charge, states, that he called on Mr. Hardenburgh in July, 1872, soliciting an appointment to the position of draughtsman, and that Mr. Hardenburgh informed him that there was no vacancy and he had nothing for him to do. That soon thereafter, hearing that application had been made to Colonel Ransom for a draughtsman, he called at his office, and was introduced to Charles E. Pickett, who told him that he was looking for a draughtsman for the Surveyor-General's Office, and that he could get one in there on certain conditions. The conditions were, that he should pay Pickett one-third of his salary, the loss to be made up in extra work from the office, after office hours. That he accepted the offer and called again at the Surveyor-General's Office and was assigned to duty, by Mr. Hardenburgh's direction. That before the expiration of his first month's service, Mr. Pickett called upon him for money and he refused to pay it, when he was told by Mr. Pickett, that unless he paid him one-third of his salary he could not be in the office. This was on the 28th of August, and on the 31st of the same month he was dismissed from service by Mr. Hardenburgh, who assigned as a reason want of funds and work.

Mr. Pickett's affidavit sustains the statement of Mr. Casey as to the arrangement between him and Casey. But he further says that he did not inform Mr. Hardenburgh of the arrangement until near the end of the month, when Casey had proved faithless to him, and, that when he did so inform him, Mr. Hardenburgh said he would discharge him, as he had found that he was not an American citizen, &c. Mr. Pickett's affidavit, however, shows that prior to the employment of Casey he had made an arrangement with Mr. Hardenburgh by which he was permitted to secure some one to take the place of a draughtsman temporarily, in such a way as to enable Pickett to receive pay from the Government "while wielding his pen in the canvass."

Mr. Wildees testifies, that the reason assigned by the Surveyor-General, when he dismissed Casey was, that he must reduce the force.

Mr. J. A. Robinson, Chief Clerk, testifies that Casey was discharged on account of the Surveyor-General having ascertained that some private arrangement had been made with Mr. Pickett that he would not approve; also, on the ground that Mr. Casey was not a citizen of the United States.

Mr. Hardenburgh admits that he employed Casey, and that he discharged him at the end of the first month, and assigns as a reason for his discharge the illegal arrangement between him and Pickett. He avoids stating, however, the precise time when he obtained a knowledge of such an arrangement, and the only direct evidence we have on that point, is Pickett's statement to the effect, that Mr. Hardenburgh was first informed near the end of the month. Taking into consideration the fact that Pickett was a party to the corrupt bargain by which Mr. Casey was to be deprived of one-third of his salary; that he had, a few days previous thereto, sought and secured an arrangement with the Surveyor-General, through which he could have his expenses paid by the Government while devoting his time to private and unofficial business, and that Mr. Hardenburgh, being a party to such arrangement, had full knowledge of Mr. Pickett's object, and with that knowledge had authorized Mr. Pickett to procure a draughtsman for the purpose of enabling him to accomplish it, and the further fact, that Mr. Hardenburgh had recently refused to employ Casey, on the ground that there was no vacancy and he had nothing for him to do, I find it impossible to conclude that he was unaware of the improper arrangement, or that he acted innocently in the matter. It is also very difficult to believe that he would have discharged so experienced and competent a draughtsman at a time when, as shown by the records of his office, there was a large amount of unfinished work on hand, had it not been for the fact that Casey refused to bleed for the benefit of Pickett. This view of the matter is strengthened by the fact, that the Surveyor-General, about that time, employed additional draughtsmen. That Mr. Hardenburgh's conscientious scruples would not have prevented him from sanctioning such an arrangement is very evident from the testimony of Pickett, which is not questioned, that he had agreed to a similar arrangement through which Pickett was to secure the benefit of a salary from the Government while he was not engaged in its service, but in a political campaign. I am unable to draw any distinction between the arrangement made by Mr. Hardenburgh with Pickett, and which he does not deny, and the one which Mr. Pickett made with Casey. The result to be attained in both cases was the same, viz: taking money out of the Treasury of the United States and putting it into the pocket of a private individual who was not expected or required to perform any official service in consideration thereof. The arrangement which Mr. Hardenburgh agreed to was substantially the same as that made by Pickett with Casey—both were corrupt, reprehensible and inexcusable.

CHARGE IV.

That the Surveyor-General approved certain work of Deputy-Surveyor J. C. Partridge, knowing the same to be incorrect and fraudulent.

This charge is contained in two affidavits made by M. G. King. in his original affidavit he does not give the particular lines to which he refers. In a supplemental affidavit, made after his interview with Mr. Partridge, he states that the standard line referred to by him was the 7th standard line north. That the township alluded to in which the discrepancies in the closing distances were found, was Town. 35, N. R. 10 E., and that the east boundary, of which the duplicate notes were returned and found to disagree, was the east boundary of T. 43, N. R. 14 E.

It will be seen that Mr. Partridge admits the material facts alleged in reference to the returns of the 7th standard North; that part of the line it appears was covered by the contracts of both Ingalls and Partridge. Ingalls surveyed that part of the line first. Partridge also claimed to have surveyed it, and made a return thereof to the Surveyor-General; but whether this pretended survey was identical with that of Ingalls I am unable to determine, as I have not the field-notes before me. It appears, however, from the statement of Mr. King, who examined the field-notes, that Partridge's pretended survey was not identical with that of Ingalls, and that his returns and statements showed that he did not find the work of Ingalls which had been previously done. Partridge now claims that, in his survey, he came upon the work already executed by Ingalls, and adopted the corners established, but, thinking they belonged in his contract, made no mention of the fact in his original returns. Even admitting that Mr. Partridge's statement is correct, it appears that he attempted a fraud by returning a portion of the 7th standard line as his own work in the field, when it had been previously surveyed by Ingalls. But the Surveyor-General could not, as a matter of course, approve both surveys, and rejected that returned by Partridge, and approved the one made by Ingalls. But the Surveyor-General, even after rejecting that part of Partridge's survey, allowed him to make corrections, without going into the field, upon a line which the records of this office show was not run by himself but by another surveyor, or, in other words, he allowed a deputy who had, to his knowledge, endeavored to commit a fraud, to correct a survey incorrectly and fraudulently returned by him, upon a line surveyed by another party, without returning to the field. In rejecting the field-notes of Partridge of the 7th standard north, he should have also rejected other work connected with it, as the returns were of such a character as to throw discredit upon the entire work of said deputy Partridge. If the whole work had been returned to his office it could have discovered and prevented the fraud, and had the correction made in the proper manner, but by the suppression of the-field notes of the 7th standard, originally returned by Partridge, and the alteration of the notes so as to show a connection with the standard line as run by Ingalls, the illegal transaction was concealed from this office until the facts were brought out in this investigation. And even now it is impossible to determine the extent of the errors thus fraudulently concealed, without sending a surveyor into the field.

Upon inspection by special Agent M. B. Robinson of the original notes of T. 35, N. R. 10 E. in which discrepancies in the closing lines are alleged by Mr. King to have existed, there are found erasures as represented by him in his affidavit. Mr. Partridge denies that he ever authorized any person to make any such changes, or any alteration for him.

King swears that the east boundary of T. 43, N. R. 14 E. is the township line, of which duplicate notes were filed. This statement is corroborated, as to the character of the line, by Wildees, Gibbons and Bielawski.

Mr. Partridge, in his affidavit in reply to this, makes no mention of the east boundary of T. 43, N. R. 14 E., but, on the contrary, makes an extended explanation as to the causes which led to a duplicate set of field-notes of an entirely different township, viz : T. 37, N. R. 15 E. The records of the Surveyor-General's office, and correspondence, show that the duplicate notes of said last-mentioned township were returned to Mr. Partridge, because they were entirely different as to topography and variations, &c. This is explained by Mr. Partridge showing that he executed two surveys in the field, the original of which being incorrect on account of errors in previous surveys, was not adopted by him. This explanation appears to have been satisfactory to the Surveyor-General, and he acepted the amended notes. The discrepancies in the notes of the boundary of the township to which Mr. King refers in his affidavit, viz : T. 43, N. R. 14 E. appear never to have received any explanation, either at the time, or in Mr. Partridge's present affidavit, and as the Surveyor-General was aware of the fact that these discrepancies existed and approved the work, this charge is sustained. If this matter had been susceptible of explanation, I am certain that Mr. Partridge and the Surveyor-General would not have passed it over in silence, and, therefore, I cannot come to any other conclusion than that Mr. Hardenburgh in approving the survey, knowing it to be incorrect and erroneous, acted fraudulently and regardless of the sanctions of his oath and his duty as an officer.

CHARGE V.

That the Surveyor-General lets the major portion of the appropriations for surveys in California to one E. H. Dyer, who is not known in the contract, but employs surveyors, chainmen, axemen, and other assistants, furnishes supplies, bondsmen, &c., and pays the parties at fixed rates per month, draws the money, and the profits of the transaction are divided between Dyer and Hardenburgh, in agreed proportions, the parties actually named in the contracts having no interest therein, except the amounts paid them

> *per month by the said Dyer, and that said work is known in the Surveyor-General's Office as "the Dyer work," and that Hardenburgh gives it precedence over other work, and causes returns thereof to be promptly made.*

In relation to this charge, W. S. Chapman states, in his affidavit of October 9th, 1872, that in June, 1871, Hardenburgh told him that he had agreed to let the Government appropriation for surveys to E. H. Dyer, of Alameda County; that he was poor and must make something out of the appropriation; that he knew of no way to do it, except to put it all into the hands of one man and let him have the entire charge of it.

In his supplemental affidavit of March 14th, 1873, he further charges that under the arrangement existing between said Hardenburgh and Dyer, the said Dyer employs such surveyors as he can find, at a fixed rate per month, and sends them into the field long in advance of any contracts being made; that said Dyer employs and engages all the chainmen, axemen and other assistants, and furnishes the necessary stores, supplies, teams, &c. That the contracts for such surveys, although nominally executed with surveyors so employed by said Dyer, are really for the benefit of said Dyer and Hardenburgh; that when the accounts for said surveys are finally audited and paid, the money is drawn by and paid to said Dyer, and, as he is informed and believes, divided between the said Dyer and Hardenburgh in agreed proportions—the parties named in the contracts having no interest therein beyond the amount per month agreed to be paid to them by the said Dyer. That said Hardenburgh orders his draughtsman and other employees to give precedence of all work of said Dyer, and to forward promptly and immediately to the Department all surveys, field-notes, &c., made by surveyors employed by him, such surveys being known and understood in the office as "Dyer's Work," although he has no contract whatever for surveying. That Dyer furnishes all the stores. supplies, bondsmen, &c. That E. Dyer is a brother of E. N. Dyer, and is, as he is informed and believes, interested with him in the transactions, and is kept surveying in the field under contracts made in the name of other parties, although no contract appears in his name, while E. H. remains at the Surveyor-General's Office and manipulates the business there.

T. M. Moore, in his affidavit of the 9th day of October, 1872, says, that about the 21st day of May, 1871, said Hardenburgh told him that he had let the entire appropriation to E. H. Dyer.

Jesse D. Carr states, that he called on Surveyor-General Hardenburgh, either in the month of September or October, 1871, and requested him to have some surveying done in the northern part of California, adjoining the Oregon line, to enable him to locate some swamp lands; that Hardenburgh referred him to E.

E. H. Dyer, who, he said, had several corps of surveyors at work in that portion of the State. That in his conversation with the Surveyor-General, Hardenburgh informed him that he found it very difficult to get surveyors to take contracts for work in the northern portion of the State, and that he had promised Mr. Dyer all that portion of the State; that when he called on Dyer, pursuant to Mr. Hardenburgh's request, he found that Mr. Dyer's corps of surveyors were not in the vicinity of the land he wished surveyed. He requested Mr. Dyer to let Jesse Applegate do the work, but that Dyer positively refused to allow " A." to do the work unless Carr would pay Applegate and allow Dyer to control the deposit.

Frank Palmer, a book-keeper in the Surveyor-General's Office, testifies to the effect that E. H. Dyer appeared at the Office at different times, in 1871 and 1872, to have contracts, which were signed in blank by deputies and their sureties filled out. The contracts referred to were with Ingalls Bros., Small, and McKay—and that, when they were filled out, in 1871 or 1872, either E. H. Dyer or E. Dyer came with the Surveyor-General to his desk and there made arrangements as to the townships to be put in the contract and the time to be allowed; thinks the contractor himself was not present in any instance. Dyer called for the contracts when they were filled out, and took them to be attested, &c. That in 1872, when the surveys were returned, the Surveyor-General several times wanted the Dyer contracts hurried up. It has been a general thing for the Surveyor-General to hurry up the appropriation work. That on one occasion the Surveyor-General said to him, that he was unable to impress upon Mr. Wildees the necessity of expediting the Dyer work and giving it the precedence. He explained that they were paying a large interest for their money, and that it was not right to keep them waiting.

J. N. Wildees, chief draughtsman in the Surveyor-General's Office, states, that the Surveyor-General never asked for his opinion as to who should have contracts, or where their surveys should be made, and that he did not recommend E. Dyer or E. H. Dyer, the Ingall Bros., Small or McKay to the especial favor of the Surveyor-General; has heard the work of the Ingalls Bros., Small and McKay referred to by the Surveyor-General as "the Dyer work;" that these contractors rarely ever called to look after their work, as Mr. Dyer attends to such matters for them; that Dyer has attended to having plats made specially for these deputies and paid for the service.

R. Gibbons, draughtsman, states, that when General Hardenburgh came into the office, he told the Chief Clerk, Mr. J. A. Robinson, that he had heard a great many complaints of Mr. Dyer's work, and that, wishing General Hardenburgh's administration to be a success, he doubted the expediency of giving Mr. Dyer the control of the whole appropriation. That shortly afterwards he was told that Mr. Dyer had control of a large part of the appropriation; and that it is his impression that Mr. Dyer has an interest in the contracts given to the Ingalls Bros. That whenever any work on the Dyer contracts is desired to be taken up out of its order and pushed through, Dyer calls to see about it. That whenever he wishes work done out of office-hours, he comes and makes arrangements with the draughtsmen. That whenever the work of those deputies requires any correction, the field books are given to Mr. Dyer and he attends to the matter. That when General Hardenburgh inquires about the work he speaks of it as "the Dyer work," and appears to be just as anxious about the early completion of the maps as Mr. Dyer himself.

Mr. C. Bielawski, draughtsman, states that, in 1871, E. H. Dyer appeared to attend to all the details in relation to the contracts with H. F. Ingalls, J. M. Ingalls, and Alexander McKay, and to be the one most interested in the matter.

That these deputies rarely if ever come to the office to attend to the work; that it was all attended to through Mr. Dyer. Remembers that the Surveyor-General made frequent inquiries in reference to the work of these parties, and wished some of it pushed ahead as soon as possible, as he had advanced the deputies some money and wished to get it back. This was in relation to the work of the Ingalls Bros., Small and McKay.

Julius N. Mott, Clerk in the Surveyor-General's Office, testifies that E. H. Dyer transacts business at the office, in many cases, for the Ingall's Bros., Small and McKay, and that, from his manner on such occasions, he was led to suspect that he had a personal interest in their contracts, but that he has no positive knowledge of any collusion between the Surveyor-General and Mr. Dyer in reference thereto.

J. C. Fairchild swears, that about the 30th day of August, 1872, he hired to E. H. Dyer as compassman for John M. Ingalls; that said Dyer hired him in the office of the Surveyor-General to perform work contracted for by J. M. Ingalls and Frank S. Ingalls; that Wilford Ingalls settled with him for the work, paying him partly in money and partly by E. H. Dyer's draft on the Bank of California.

J. A. Robinson swears that Mr. Fairchild was employed by Mr. E. H. Dyer.

E. H. Dyer states, that soon after Hardenburgh took possession of the Surveyor-General's office, he called upon him at the office, and Hardenburgh requested him to take a contract, which he declined to do. That Hardenburgh stated that he was overrun with parties making applications for surveys; that he was unacquainted with surveys and Surveyors; that *he knew deponent well, and had confidence in his judgment and ability;* that *he wished deponent to recommend to him some surveyors, which he, deponent, knew to be qualified, trustworthy and reliable;* that *he recommended certain Surveyors to said Hardenburgh, who gave them contracts.*

He admits that he assisted Ingalls Bros. and Small, and that he employed assistants for them, as their agent, by their request; that he has assisted said deputies by furnishing means; that he has collected drafts or sold them for gold, and held them subject to the order of said surveyors; that he has aided them in various ways by having original notes copied, and has delivered said notes to the Chief Clerk of the Surveyor-General's Office, and if errors were found, he sent them to the deputies in the field for correction; has employed draughtsmen and copying clerks to work on field-notes and plats, in order to get the work off to Washington at the earliest possible moment, *all of which he has done for such compensation as such services were worth.* He further admits that said deputies were authorized to draw checks in the name of E. H. and E. Dyer for use in the field. He admits that he hired Fairchild as compassman for John M. Ingalls, at the request of said Ingalls.

E. Dyer admits that he is a partner of E. H. Dyer; that they have assisted W. F., J. M. and F. S. Ingalls and George Small, pecuniarily; that they have attended copying original field-notes, visiting the office of the Surveyor-General from time to time, noting the progress of the draughtsmen thereon, and when errors were found, had them corrected, or informed the deputies thereof, in order that they might have opportunity to correct them.

W. F. Ingalls, in his affidavits, admits that he has received pecuniary aid from E. H. and E. Dyer; that the firm always attended to deponent's business in his absence; that said Dyers have been empowered to draw deponent's money from the Government, and to act in his stead, in all things that are requisite and necessary in the transaction of business; and that *for such attention to his business, he has paid the said firm of E. H. and E. Dyer in accordance with assistance received and services rendered.*

John M. Ingalls admits that Fairchild was hired by E. H. Dyer at his request, that he has received pecuniary assistance, and other aid, from E. H. and E. Dyer, giving said Dyers powers to collect drafts in his name, also leaving other business for said Dyer to attend to during his absence, *paying said Dyer according to assistance rendered and money received.*

Walter Mead, who was a clerk in the Surveyor-General's Office a few months, swears that he has no knowledge of Mr. Hardenburgh"s giving precedence to one man's work over another, but that he manifested an anxiety not to have the office work run behind.

E. H. Dyer swears that Chapman's statements about his having control of the appropriations for public surveys are false in every particular, and that he does not now and never has exercised any control of the appropriations, or any part thereof, except such sums as he may have received from contracts performed by himself in his own name ; and denies that Ingalls Bros. and George Small were employed by him at fixed wages per month, while performing surveying contracts with the United States Surveyor-General ; or that he hires assistants from said deputies, except as their agent, by their request.

E. Dyer swears, that neither he, or the said E. H. and E. Dyer have ever paid W. F., J. M. and F. S. Ingalls, or George Small any wages whatever while acting as deputy-surveyors of the publid lands during the official term of said Hardenburgh, nor have they exercised any control over their official acts.

W. F. Ingalls swears, that he has not received any unusual favors from Hardenburgh ; and that Hardenburgh has no interest in his contracts. He denies that he is employed by E. H. Dyer at a fixed rate per month, or that Dyer has any control over him, in regard to going into or leaving the field, or with reference to the execution of his contracts with the Government.

A number of affidavits made by deputies who have had contracts are filed, in which they state that they have not paid any percentage to or made any dividends with Hardenburgh.

Mr. Hardenburgh, in answer to this charge, states, that upon taking charge of his office he submitted a list of surveyors, who had been employed by his predecessors, to his chief draughtsman, Mr. Wildees, with a request that he would pass upon their qualifications, fitness, standing, &c., as surveyors ; that he did so, and returned him the list with checks opposite the names of the Ingalls Bros. and the Dyer Bros., showing that their surveys had been satisfactory. That he did not know either E. or E. H. Dyer, or the Ingalls boys, but that they were all reported to him as in good standing. That he met E. H. Dyer, and asked him if he wanted a contract, that he declined to take one, but recommended his brothers-in-law, and that he employed the Ingalls boys. That he understood from Mr. Dyer that he would furnish the Ingalls boys their outfit, and assist them pecuniarily. He denies that he farmed out the surveys to E. H. Dyer, or that he ever made any arrangement, agreement, contract, or bargain with said E. H. Dyer, E. Dyer, John M. Ingalls, Wilford Ingalls, Alexander McKay, Frank Ingalls, or George Small, or either of them, or with any one for them, or either of them, by which they, or either of them ever promised or agreed to pay, or did pay, any portion of his or their receipts for Government or other survey to him, or any one for him. And denies that he had any interest in the surveys made by them, or either of them, directly or indirectly. He denies that he ever told T. W. Moore, or any one, that he was relieved from further annoyance from surveyors, and that he had let the entire appropriation to E. H. Dyer, or any one. He denies that he, in the month of June, 1871, or any other time, told W. S. Chapman that he had agreed to let the Government appropriations for surveys in the State of California to E. N. Dyer, or to any one, and denies that Dyer has full charge of public surveys, or of any surveys ; and that he contracts for surveys made with J. M. and W. F. Ingalls or George Small, and that they were for the benefit of E. H. Dyer and himself or either of them. Denies that the money paid to said Ingalls and others is divided between E. H. Dyer and himself, in agreed proportions, or in any manner at all. Denies that he gives precedence to the work of W. F. Ingalls, J. M. Ingalls, and others, over work done by other surveyors, or that E. H. Dyer furnishes the bondsmen for the Ingalls Bros.

With reference to this charge I will remark that the records of this office show that the major portion of the appropriations for surveys in California, since Mr. Hardenburgh has had charge of the same, has been let to the parties for whom the Dyer Bros. profess to act as agents, and that said Dyers have collected a very large proportion of the money.

Mr. Hardenburgh, in his explanation, while denying that he farmed out the appropriations to Dyer, and claiming that he did not know either E. or E. H. Dyer, admits that he accepted Mr. Dyer's récommendation and employed his brothers-in-law as deputies.

E. H. Dyer states, that Hardenburgh requested him to take a conract which he declined to do; that Hardenburgh then stated that he knew him well and had confidence in his judgment and ability, and wished him to recommend some surveyors whom he knew to be qualified, trustworthy and reliable; and that he recommended certain surveyors to said Hardenburgh, who gave them contracts.

The testimony shows clearly, First: that Hardenburgh, relying upon "the judgment and ability" of E. H. Dyer, requested him to recommend deputies for employment, and that he gave them employment upon such recommendation. Second, that the Dyer Bros. have almost exclusively attended to the business of said deputies before the office of the Surveyor General, not only in a general way, but even controlling the minutest detail; that the Dyer Bros. have furnished said deputies money and other assistance, and allowed them to use their name in drawing drafts on the Bank of California. Third, that the work was understood to be, and known in the office as, "the Dyer work," and so designated by the Surveyor-General, who manifested more than usual anxiety in hurrying up and having it promptly attended to. Fourth, that the Dyer Bros. not only control and transact the business of the deputies, but that they have an interest therein. For, while denying that they paid the deputies by the month, they studiously avoid explaining the precise nature of the arrangement between them.

But E. H. Dyer swears, in his testimony relating to his agency in the transaction of the business of the deputies, that he did it *for such compensation as such services were worth.*"

John M. Ingalls says, that he "*paid said Dyers according to the assistance rendered and money received.*"

The circumstances connected with the employment of these deputies, upon the recommendation of E. H. Dyer, and the manner in which the business was subsequently transacted before the Surveyor-General, preclude the conclusion that the Dyers are disinterested parties, or merely agents in the matter. They have, so far as the transaction of the business of the deputies recommended by E. H. Dyer is concerned, controlled it before the Surveyor-General's office, and a large proportion of the money has passed directly into their hands; and as the contracts of the deputies recommended by Dyer have covered the larger portion of the appropriations for surveys in California since Mr. Hardenburgh took charge of the office, it is evident that, whatever the nature of the arrangement between the Dyer Bros. and the deputies may have been, the Dyers have virtually controlled a major portion of the moneys appropriated, although nominally not parties to any surveying contract. The evidence also precludes the conclusion that Mr. Hardenburgh could have been, or was ignorant of this fact, having employed the deputies designated by Mr. Dyer, and having recognized the Dyers throughout the transaction of all the business, even to filling out contracts which are signed in blank. It is not strange that, in his intercourse with his subordinates, he recognized and referred to the work of the deputies recommended by Dyer, as the Dyer work. I, therefore, without reference to the direct testimony of Mr. Chapman and Mr. Moore, that Hardenburgh told them that he had let the appropriation to Dyer, as corroborated by the testimony of Jesse D. Carr, conclude, that inasmuch as Mr. Hardenburgh allowed E. H. Dyer to designate deputies, and transacted the major portion, if not all the business with the Dyer Bros., and allowed the deputies to go into the field and select their work before the contracts had been filled out, and then fill the contracts with townships from a list furnished by Mr. Dyer, (as will appear in another part of this report); that whether Mr. Hardenburgh had or had not an interest in the matter, he allowed the said Dyer to virtually control the major part of the appropriations and of the surveys.

On the question of Mr. Hardenburgh's interest in the matter, we have the direct testimony of Chapman, that in June, 1871, Mr. Hardenburgh told him that he had agreed to let the surveys to E. H. Dyer, of Alameda County; that he was poor and must make something out of the appropriations; that he knew of no way to do it except to put it all into the hands of one man, and let him have the entire charge of it. And of Mr. Moore, that Hardenburgh told him he had let the entire appropriation to E. H. Dyer; of Jesse D. Carr, that when he called on Hardenburgh in reference to surveys in the northern part of California, he referred him to E. N. Dyer, and told him that Dyer had several corps of surveyors at work in that portion of the State, and that he had promised Mr. Dyer all of that portion of the State. Of Mr. Bielawski, who states, that he remembers that the Surveyor-General made frequent inquiries in reference to the work of the Ingalls Brothers, Small and McKay, and wished some of it pushed ahead as soon as possible, as he, Hardenburgh, had advanced the deputies some money, and wished to get it back.

The statements of Messrs. Chapman, Moore, Carr and Bielawski, are contradicted by Mr. Hardenburgh, but corroborated by the testimony of other witnesses, to the effect, that the Surveyor-

General took unusual interest in hurrying up the work done by these parties, and referring to it as " the Dyer work."

Mr. Hardenburgh's denial is supported, however, by the statement of E. H. Dyer, who swears that Chapman's statements, about his having control of public surveys, are false in every particular.

The weight of evidence on this point appears to be against Mr. Hardenburgh. It may be, that if he were on trial for a criminal offense, and entitled to the benefit of every doubt that a jury would acquit him upon the testimony of Mr. Dyer and his own denial, but after a careful consideration of all the evidence on this point, I do not feel warranted in saying that he is not guilty.

CHARGE VI.

That Surveyor-General Hardenburgh leased deskroom in his office, for which the Government pays rent, to a private individual, and received the rent therefor.

This charge Mr. Hardenburgh admits, but claims that G. H. Thompson had first rented deskroom of Sherman Day, and was in the office when he took it. The evidence shows that he received $78 from Mr. Thompson, but it is stated that he used it in part payment for a carpet for the office. This proceeding was irregular, unwarranted and illegal, even if he appropriated the money in the manner stated; but his accounts, as adjusted at his office, did not show any such transaction.

CHARGE VII.

That the Surveyor-General withholds triplicate plats of township surveys for months, and, in some instances, for years, thereby preventing any disposition of the lands, and compelling parties, having an interest in such townships, to pay exorbitant fees to the Surveyor-General or his employees, for making and transmitting such triplicates to the local land office.

W. J. Ingalls swears, that a large number of settlers are ready and anxious to file declaratory statements, but that the triplicate plats of these surveys, or the greater portion of them, have not been filed in the local land office. Such was the case until recently, and deponent believes it to be the case at the present time.

J. M. Sprague states, under oath, that he is a resident of the county of Santa Cruz, and a settler on sections 17 and 18, in Tp. 10, S. R. 2 W. Mount Diablo meridian. That he settled on said lands prior to the survey of said townships, to wit: in 1866. That after the surveys of said lands was approved, and the maps filed in the United States Land Office at San Francisco, the plats of said land were suspended by the order of the United States Surveyor-General. That the suspension included that part of his land embraced in sec. 18. That on or about the 5th day of April, 1873, he made application to Surveyor-General Hardenburgh to restore the said lands. That on said application being made, it appearing that no valid reason existed why the land should not be restored, said Hardenburgh represented to affiant that three maps of the entire township would have to be made to restore said lands; one to be filed in the United States Land Office at San Francisco, one to be sent to Washington City, and one to be retained in the office of the said Surveyor-General. That to procure the lands to be restored by said Surveyor-General, and for restoring the same for entry and pre-emption, said Surveyor-General charged him the sum of $30, in gold coin. That on or about said date, to procure such restoration of said lands, he did pay to one of the Clerks in the Surveyor-General's Office, for said Hardenburgh, the sum of $30, in United States gold coin.

Special Agent Robinson caused a statement to be made from the records of the Surveyor-General's office, which shows that triplicate plats of several hundred townships have not been returned to the local land offices. Some of these surveys were made in 1856 and 1857; but about one hundred of the townships were surveyed during the last fiscal year.

The foregoing, taken in connection with the voluminous testimony, showing the practice in the office to be, to require parties desiring copies of plats and papers to pay a fee for the same, to be divided between the Surveyor-General and the clerk doing the work, clearly proves the charge to be true.

Prior to Mr. Hardenburgh's assuming control of the office, the appropriations were so small and inadequate, that there might have been some justification for delays of this character, but now they are ample, and there is no reason why the current work should not be attended to promptly. The regulations of this office require the Surveyor-General to forward the triplicate plats to the land offices at the same time he returns the duplicate to this office, and there is now no excuse for his neglect to comply with these regulations; and the plats are undoubtedly withheld, in order to increase the fees which the Surveyor-General charges for this sort of work, or to enable him to keep the clerks on other work, out of which he can make a greater profit.

CHARGE VIII.

That the Surveyor-General uses the appropriations in making surveys in uninhabited regions, where there is little or no demand for lands by actual settlers, while neglecting to make surveys in thickly settled localities, and compels the inhabitants of townships in such localities to deposit money to pay for such services.

William S. Chapman, in his affidavit of October 9th, 1872, states that the surveys in 1871 were chiefly made in the northeastern part of the State where no settlements exist.

J. C. Fairchild states, that the topography of the country and the character of the soil is such that it certainly will not be taken up by actual settlers for many years to come, if ever.

F. L. Palmer states, that he does not think the appropriation for 1871 and 1872 were let with reference to applications for surveys by settlers. That he did not know of any applications from settlers for survey in that quarter. That the general rule is, that when an application is made for the survey of some particular township, to furnish the applicant with an estimate of the cost of survey and office work, and to inform him that, the necessary deposit being made, the same will be ordered.

W. F. Ingalls states, that a large number of settlers are ready and anxious to file declaratory statements, but triplicate plats of surveys, or the greater portion of them, have not been filed in the local land offices. So that, when the surveys were made, most of the settlers had just arrived on the ground, and had no improvements except a cloth tent, or some temporary shelter. Their improvements have been made subsequent to the survey, and do not appear upon the maps.

Hon. J. K. Luttrell, in a letter to Mr. Hardenburgh, states that he can testify, from personal observation and knowledge, that all the lands comprised in the localities known as Surprise Valley, Goose Lake, Hot Springs, Big Valley and other valleys adjacent thereto, and situated in the counties of Siskiyou, Shasta, and Lassen, comprise as fine land as can be found anywhere in California; adapted to every description of agriculture and to fruit raising; peculiarly fitted for stock raising, being well watered and rich in nutritious grasses, such as only a fertile soil could produce, and that settlers are now applying to him to secure survey of said lands, having resided thereon from ten to fifteen years.

L. M. Foulke, in a letter to General Hardenburgh, states that he is somewhat familiar with the country in Big Valley and Hot Springs Valley, and likewise in the vicinity of Goose Lake, Clear Lake, etc., in Siskiyou County, California, and also has considerable knowledge of the land in the above-mentioned localities. The Big Valley is excellent farming country, as is likewise Hot

Springs Valley, well adapted to raising small grains, hay, and for grazing purposes. That there is also much very good farming and grazing land in the vicinity of Goose Lake, Clear Lake, Rhett Lake and Willow Creek. That there are scattered patches of barren and untillable land, but the great body of the lands in the above-mentioned localities will compare favorably with the lands in the older settled portions of California, both for farming and grazing purposes, and speaks of the rapid settlement of the said localities during the past year.

William J. Miller swears, that he resides at Hayden Hill, Lassen County, California, and has traveled all over the northeastern part of California, and knows its climate, character and good qualities. That with the exception of Hayden Hill, which is mineral, it is all good grazing land and agricultural land. That the agricultural land is all settled on. That a large part of the grazing land is taken up. That the settlements are numerous. That the land surveyed by Ingalls Bros. was good grazing and agricultural land, and was not surveyed before it was needed. That the whole country is being rapidly settled up and occupied.

S. Look swears that he has resided at Rohnerville, in the County of Humboldt, State of California, for eight years; knows the country in Humboldt County. That the land surveyed by John M. Ingalls in 1872, is good and well adapted for grazing and agricultural purposes. That townships are settled up, and he knows of four stores, all doing good business in 1872.

William Minto states, that he has resided six years in Surprise Valley, California, and is well acquainted with all the north and northeastern portions of the State. That in said locality there is a very extensive and large body of very fine agricultural and grazing land. That the surveys made during the years 1871 and 1872 in northern California were needed. That there are a great many actual settlers in the northeastern part of California who have been attracted there by the fine climate and rich soil. That owing to the distance from market, it has been found more profitable by the settlers to engage in stock raising than to raise small grain.

J. E. Moore states that he resides at Bugotville, Fall River Valley, Shasta County, California. Is well acquainted with all the country, from the Oregon State line, south and east of the Mount Diablo meridian; has traveled through it many times. That it is good agricultural land in the valley. The hills are good grazing country; the table-land is good grazing land. Big Valley, the largest valley, is all settled up, and being cultivated by farmers. Hot Springs Valley is pretty much all settled up, and it is hard for a man to get good land there now. There are a good many settlers in the country. That Big Valley is 35 miles in length by 15 miles on an average, and it is nearly all good tillable land, most of it claimed and settled upon. That Hot Springs Valley is about 40 miles in length, and it is about 4 miles wide on an average. That Goose Lake Valley, in California, is 30 miles long, and is from 4 to 6 miles wide.

A. N. Guptrill states that, during the years 1871 and 1872, he was assessor in the County of Humboldt, State of California, and has been a resident of the County for a number of years, and is well acquainted with most of the land embraced within its limits. That that portion lying south of the Humboldt base line, and east of Humboldt meridian, is, for the most part, well adapted for grazing purposes; also, contains fertile valleys, lying along the streams by which it is watered. That it is mostly, if not all, claimed by actual settlers, and used for purposes of grazing and agriculture, though not extensively reduced to a state of cultivation; that in 1871 there were residing on that land more than 75 registered voters.

J. J. DeHaven states that the land in the southeasterly portion of Humboldt County, California, surveyed during the year 1872, is considered valuable for grazing purposes, and the greater portion thereof is claimed by actual settlers, and used for purposes of pasturage.

Robert Gardiner, State Surveyor-General of California, in a letter to Mr. Hardenburgh states, that all of the 16th and 36th sections, with a very few exceptions, had been applied for; that every acre of the swamp and overflowed lands, shown on the plats of townships returned, have been applied for by applications to purchase from the State, and there are, in many cases, several applications for the same tract. That J. D. Carr has applied for 13,000 acres; C. J. Dorris has applied for 5,888 acres; and Patrick Hagan for 1,320.

The Register and Receiver at Shasta, California, by letter dated May 13th, 1872, calls the Surveyor-General's attention to the fact that they had old settlers calling on them every day, to know when they could file for their lands, and furnishing a large list of townships which they thought necessary to have surveyed, stating that much of the land was rough and broken, but that they found many fine small valleys, and requested that he should contract with Mr. McKey for the survey of the same. He also files a letter from a number of citizens of Humboldt County, dated May 15th, 1872, representing that there was a pressing need for additional surveys in their County, and recommending R. F. Herrick as a competent man to do the work in the field.

The Register and Receiver at Eureka, California, writes to Mr. Hardenburgh the 15th of April, 1872, requesting surveys in their district, stating that the same would confer a great favor on a large number of settlers on unsurveyed land, and giving a list of townships in which surveys were necessary, and stated that it was mostly hilly grazing land, and that a large portion in each township was not worth survey, because it was cut up with deep gulches and dense underbrush. That, in some instances, one-half the township was of such a character that it would be very difficult to survey, and if surveyed, it could not be sold, as it was worth nothing; that they estimated one-half the township mentioned by them as of that character.

C. W. Bowman states, under oath, that on or about April 20th, 1871, he presented to the United States Surveyor-General for California, at his office in the City of San Francisco, a petition, asking that a large number of townships in the counties of Fresno and Tulare, State of California, be surveyed, the petition being signed by fifty or more *bona fide* settlers, or some of the townships were within the Southern Pacific Railroad limits, and that settlers were anxious to know whether they were on Government or railroad lands, in order that they might get titles to the lands and make permanent improvements. That, to the best of his knowledge and belief, there are from 150 to 160 settlers in the townships petitioned for, and that many of them lived on the land ten or more years. That, on presenting said petition, the Surveyor-General informed him that he could do nothing in the matter until about the first of July, 1871, as the appropriation could not be utilized until the beginning of the year 1871-72, when he would let the contract. That about the last of June he again spoke to Mr. Hardenburgh. That about the 5th of July, 1872, he went to Mr. Hardenburgh's Office in San Francisco, and urged him to let the contract, as the settlers were anxious in the matter, when the Surveyor-General replied that he had no funds, as he had received an order from the Department at Washington, compelling him to use the funds in the northern part of the State, and that contracts had already been let absorbing the whole appropriation. About the middle of July, 1872, deponent called on the Surveyor General again, and asked him to consider said petition, when he again replied that he had no funds. That he then asked him to return said petition, which he refused to do, saying, that it was part of the records of the office, and could not be returned. That again, on the 8th day of May, 1873, he went to the Office of the Surveyor-General in San Francisco, and asked for said petition when Hardenburgh informed him that he could not have it.

Mr. Hardenburgh says, that when the appropriation of 1872 became available, he was induced to make the survey in northeastern California, being requested to do so by John S. Ward, Register of the Susanville Land Office. That in the survey of counties near San Francisco, there appeared to be a difference of opinion. That in one instance he received a remonstrance against survey in a thickly settled locality, and that when he received said remonstrance, he made the surveys in northeastern California. That in 1872, he made surveys in Humboldt County, upon application of the United States Land Officer, he stating that his office had been ignored for years. He denies the charge that the territory surveyed by his direction in 1871-72 is a barren waste.

Mr. Hardenburgh had prepared and filed with Special Agent Robinson a statement, showing that, during his administration, surveys had been made to the amount of $47,861.75, deposits by parties desiring surveys.

So far as this charge is concerned, I think that, while it is shown that there was a demand for surveys in northern California, and that Mr. Hardenburgh would have been justified in expending a reasonable share of the appropriation in that locality, it is as clearly shown that he was not justified in expending the major portion of the appropriations there, and disregarding the claims and interests of settlers in older and more densely populated districts, or compelling them to make deposits to so large an amount, viz: $48,000.

Mr. Hardenburgh's expressions of anxiety to accommodate settlers in this matter, do not amount to much, in view of the fact, that he virtually ignored and neglected the older settled portions of the State, and made his surveys almost wholly in the newer and more thinly settled districts; and the further fact, that the triplicate plats of a very large proportion of the surveys made, are still held in his office, as appears in another part of his report. I think the explanation of this matter is to be found in the fact, that certain favored deputies were allowed to go into the field and select desirable ground for field operations in advance of the complete execution of their contracts. Had the controlling motive on the part of the Surveyor-General been the accommodation of settlers, he would not only have distributed the appropriation, but furnished the local land office with plats more promptly than he has done; for a survey, without the filing of such plats in the local land office, is of little or no advantage or benefit to a settler.

CHARGE IX.

That deputies proceed to the field and to the execution of their work, prior to the time that appropriations become available, and prior to the execution of contracts, in direct violation of law and the insiruction of the General Land Office, and that contracts are subsequently executed so as to cover the work thus performed.

W. S. Chapman states in his affidavit of October 9th 1872, that Dyer hired deputies by the month, and put them in the field as early as April or May, 1871, without contracts.

John M. Ingalls states, that when General Hardenburgh succeeded Surveyor General Day, he applied to General Hardenburgh for a contract. That he was afterwards promised a contract in the northeast part of the State, and proceeded to the field, and made preliminary surveys sufficient to locate a contract.

Henry Vrooman states, that J. M. Ingalls started out his surveying parties for the survey of public lands in the northeastern part of the State in 1871, on the 26th day of May in that year, and himself overtook them at Orrinville, that in order to so overtake them, he must have started from San Francisco as early as the 28th or 29th day of said month. That said Ingalls remained upon the ground of said surveys, east of the Sierra Nevada Summit, from the time of their arrival there, on the 8th day of June, 1871, until about October of that year. He further says, that J. M. Ingalls could not have signed the contract at San Francisco for surveys to be made that year at any time between the 1st day of June and the fall of said year, being all that time east of the Sierra Summit. That at the request of J. M. Ingalls he first proceeded, on his arrival on the ground, to run a due north line from a standard line through unsurveyed country, in order to select lands which said Ingalls should survey that year, said Ingalls accompanying. That he set section and quarter section stakes as he run said line, and that subsequently, in said year, he helped subdivide the township under said Ingalls' contract, the location of which he had ascertained by running said first line.

Frank L. Palmer swears, that in one instance a contract was handed him by E. N. Dyer, which came signed in blank by the deputy and his sureties, and that he was directed by the Surveyor-General to fill them out, after which they were handed back to Mr. Dyer to get them attested by the notary public, which he did. That in 1872 Mr. Dyer brought a contract signed by W. F. Ingalls which was filled out and the sureties names obtained and attested by the notary after it was handed back by Mr. Dyer. That at the time of filling out the contracts in each case in 1871 and 1872, either E. N. Dyer or E. Dyer came with the Surveyor-General to his desk and there made the arrangements as to the township to be put into the contract, and the time to be allowed. Thinks the contractor himself was not present in any instance. Refers to contracts with the Ingalls Bros. Small and McKay. That Dyer called for the contracts when they were filled out, and took them to be attested, &c.

Mr. Hardenburgh, in reply to this, disclaims any knowledge of the matter.

Mr. Palmer, in a subsequent affidavit, reiterated his statement, that the Surveyor-General came to his desk with Mr. Dyer with the contracts, and gave him a list of the townships to be contracted for.

Mr. John M. Ingalls admitted to Special Agent Robinson that he had no contract when he went into the field. That he went into the field with his party, run the standard line, as stated by Vrooman in his affidavit, and ascertained where he wished the contract located. That he did not leave the field, but notified the Office what townships he had selected, and that they were then inserted in his contract. That after the contract was let, he did not re-run the line surveyed in the location of the work, but that the dates were changed so as to show the work to have been executed after the date of the contract.

It further appears, by an examination of their field-notes by Mr. Robinson, that these dates were changed.

Surveyor-General Hardenburgh, although stating in his answer that he has no recollection in reference to the execution of contracts as sworn to by Mr. Palmer, admitted orally to Special Agent Robinson the contracts were signed in blank in two or three instances, before the parties went into the field, but claimed that such practice had been tolerated by his predecessor.

This charge is fully sustained by the testimony, and the admissions of Messrs. Hardenburgh and Ingalls. The testimony of Mr. Vrooman as to the time when the party started to the field, and that a contract could not have been executed at San Francisco after the first day of June, 1871, is not contradicted, but fully corroborated by the admissions of Hardenburgh and Ingalls, that contracts were executed in blank; and the further admission of Ingalls, that he went into the field and run the standard line, as stated by Mr. Vrooman, and that he did not leave the field, but notified the office what townships he had selected, and that they were then inserted in the contract which he had signed in blank before leaving San Francisco, and that after the contract was let he did not re-run the lines surveyed in the location of the work. The contract referred to is dated June 15th, 1871, a half a month before the appropriation became available, and Mr. Ingalls could not have legally commenced work under it before the first day of July, 1871. But it appears not only from Vrooman's affidavit—which is not questioned in this particular—that Ingalls was in the field, at work, before its complete execution. And Ingalls, by his admission to Robinson, confirms and supports Vrooman's statement.

No deputy would have hired men and gone a long distance into the field, and performed work at a heavy expense, under such circumstances, without the knowledge, approval and consent of the Surveyor-General; and the Surveyor-General, when he admits the execution of the contract in blank, virtually pleads guilty to the whole charge. Strange as it may appear, in the face of these facts, the returns to this office show that all the work was done after the 1st of July 1871, when the appropriation became available. But stranger still, these surveys were accepted, approved and forwarded to this office by the Surveyor-General, who knew the returns were false.

The charge, therefore, is not only fully proven, but it is also clearly shown that Hardenburgh was a party to this illegal and fraudulent transaction: First. By the execution of the contract in blank, prior to the time the appropriation became available, so as to enable the deputy to proceed to the field and commence work about a month before work could be legally executed under the appropriation. Second. By filling up the contract at a date subsequent to the commencement of the work in the field. Third. Covering up and concealing the fraud by the approval of surveys based upon returns which he knew to be false, as they represented the work to have been done after the 1st of July.

CHARGE X.

That the character of the work in the field is notoriously imperfect and not in accordance with law and instructions, in that, lines are not run and the corners established as required by the manual of surveying instructions, issued by the General Land Office, but in accordance with instructions directly contrary to the same, given by the deputy surveyors. That field-notes are manufactured from a general description, and not based upon lines actually run. That the oaths of assistants are not made to the field-notes of survey which they assist to execute.

In support of this charge, Henry Vrooman swears that, in the year 1871, he worked for about six weeks as compass-man in surveying townships for J. M. Ingalls, in the northeastern part of California; and that, in 1872, he was again employed by said Ingalls as compass-man for about six weeks. That in the latter year he worked on the survey of Townships 1 and 2, S. R. 3. E. Humboldt Meridian. That he ran all the lines represented in red pencil on the annexed township plats, marked respectively "Exhibit A" and "Exhibit B," in township 1 N. and 1 S. R. 5 E. Humboldt Meridian. That no other section lines were ever run on either of said townships than those so marked. That while running the section and township lines, so designated by red pencil lines on said plats, he kept a memorandum book, which is herewith marked "Exhibit C," and made a part of his affidavit, in which he entered, as he run the lines, the field-notes of the survey so made by him of said lines, in said townships, which notes he, the said deponent, literally copied every night into a book kept by him at the camp, which book he gave to the said Ingalls. That the field-notes, so copied into said book so given to said Ingalls, were an exact copy of the field-notes entered in book "Exhibit C," and show that only the lines marked in red pencil on "Exhibit A" and "B" were actually run in the field. That he has compared his original field-notes, appearing in "Exhibit C," with those of said township on file in the office of the United States Surveyor-General of California, and finds that they differ materially therefrom, even as to the lines actually run in said township. That said field-notes on file falsely and fraudulently represent most of the lines in said townships, which have never been run by a United States Surveyor, as having been actually run under the contract of said Ingalls to survey said townships. He further states, that the reason why he did not run the other lines in said township, which were left unsurveyed by him, was, that he was told by said Ingalls that not more than a week should be spent on a township; that whenever he should come to a difficult place he should turn back, and that he should run no unnecessary lines, but should write a description of every mile of section or township lines, whether he run them or run within ten miles thereof.

Deponent further says, that he run the lines as directed by said Ingalls, the contractor under whom he worked, and that neither in 1871 nor in 1872 were any of the townships surveyed in accordance with the instructions of the manual—some lines being omitted in every township. He further says, that he cannot give the details of the work done in 1871, for the reason that he returned to the said Ingalls the field-notes of the work then done, originally made by him, and, also, that he has not the notes of his work done in 1872, except in the two townships hereinbefore mentioned, having kept field-notes of the other townships on slips of paper, which he threw away, after copying them for said Ingalls, as aforesaid.

Deponent further says, that he is informed that his name does not appear in the field-notes and other records of the office of the United States Surveyor-General for California, in connection with the townships which he surveyed; and that he has ascertained by personal inspection that the work so done as aforesaid by him, in said townships 1 North and South Range, 5 East, is sworn to by another person in the field-notes of said survey, and the accompanying papers. He further says, that he furnished said Ingalls with a general description of the country in said townships, over which he did not run lines or set corners, as nearly as he could describe it from what he saw while running other lines, but that said description showed clearly that the lines were not run in the field other than is hereinbefore stated, and that the field-notes of said townships, purporting to be made on survey of the lines hereinbefore shown never to have been run by this deponent, have been deliberately manufactured and filed as genuine field-notes, since he gave Ingalls the field-notes hereinbefore mentioned. He further says, that the plat and field-notes on file in said Surveyor-General's Office of Tp. 2, N. R. 5 E. Humboldt Meridian, indicates that all the section lines in said townships had been run in the field; that he was the compassman who ran the lines in said township for said Ingalls, and that, according to his best recollection, not one-half of the section lines in said township were ever run. That he annexes a blank plat of said township marked "Exhibit D," and that, according to his best recollection, none of the corners were set, which were marked in said plat with a cross. He further says, that all the work done in 1871 and 1872, by said Ingalls, under contracts for United States surveys, was done without the slightest reference to the character of the country, or the manual of instructions.

He also files a letter, written in pencil, signed "Jno." which he alleges was written by said J. M. Ingalls, giving him instructions in relation to the manner in which he should execute surveys. This letter is dated August 7th, 1872, and says:

"Don't omit writing a description of every mile, whether run or not, and don't run unnecessary lines, as time is on the wing. Don't make your lines too plain when they are about to run out. *Played out.* I am told that the Surveyor whose work we are to close on, covered his tracks well, and that we need not expect to find many old corners. The N. W. corner of township 2, N. R. 5 E., and 5 miles of the W. Bon. of Tp. 3, N. R. 5 E., have been established by the Surveyor before mentioned; would not spend too much time looking for his old corners. If none to be found, set one where it suits your work. If you find them, and the country is good around the vicinity, correct your work for a mile or two around; if the country is very bad, let the correction go. The N. W. corner of 3 N. 5 E., will be set by Frank, if you don't get there before him. After completing the township that you are now in, go to Tp. 2, N. R. 5 E. You are to subdivide and run the E. and North boundary of same. Tp. 3, N. R 5 E., subdivide and run the E. and N. boundaries. You will then jog west one township into 4 N. R. 4 E., subdivide and run E. and North Bon., Tp. 5, N. R. 4 E., east Bon., and subdivide. If I can get things working satisfactory here, will try and be with you some of the time. I have not time to look over your notes now, but don't forget to write up every mile, whether *you run it or run within ten miles of it.* I can then tell about what I want to throw off."

J. C. Fairchild swears that he is a surveyor, and resides at San Francisco, California. That about the 13th of August, 1872, he hired to E. H. Dyer, as compassman for John M. Ingalls, to run section lines in the United States Government survey of Townships 1 South Range 4 East, 2 S. 3 E., 2 S. 4 E., 2 S. 5 E., 3 S. 4 E., 3 S. 5 E., 3 S. 6 E., 4 S. 4 E., 4 S. 5E., 4 S. 6 E., 5 S. 4 E., and 5 S. 6 E.—all of the Humboldt base meridian. That he commenced said work on the 11th day of September, 1872, continued until the 10th day of November of the same year, that he was not furnished with a manual of instructions, but worked solely under instructions from J. M. Ingalls and Frank J. Ingalls; that said instructions were to run lines only when land was clear and work easy, and that when he came to bushy or hard places to jump off, and make no corners except in plain easy running, and to report the topography of the country as far as he could, without running lines. That he worked and camped with the said J. M. Ingalls and Frank S. Ingalls, and received directions from them, from day to day, how and where to work. That his general directions from them was, when land was too bushy to make a mile or two a day, to leave the line and go on some other line, where it was plain easy work. In jumping about he sometimes came on other work, but his lines never closed with others within less than three chains, except in one instance. In running section lines north, he was instructed not to run east across to close with the next section line, but to run only half way and set quarter section stake. As a rule, he did not run random lines and correct back, but ran the permanent line in the first instance. During the whole of his work he never closed the township lines but once, and then came within about five chains each way. That he returned his field-notes to Ingalls as the work was done. That on examination of the field-notes in Surveyor-General Hardenburgh's Office, he finds that he, as compassman, in making the entire surveys in Tps. 1 North and 1 South, Range 5 East, as also of several other townships, in which he did no work and with which he had no connection. That in his preliminary oath, which he signed before J. M. Ingalls, and which was filled out by him afterwards, the work is reported as having been commenced in August and completed the 9th of September, 1872, which last date was two days before he got to work That the field-notes. now in the Surveyor-General's Office, are not in his handwriting, or in that of J. M. Ingalls, or Frank S. Ingalls, and not as he gave them to said Ingalls. That, so far as he knows, the work in the aforementioned townships has not been in accordance with the Government manual of surveying instructions, or to secure accuracy, but solely to accomplish the greatest amount of work in the shortest time.

John M. Ingalls, in an attempted explanation made to Special Agent M. B. Robinson, admits that under his contract of June 5th, 1871, he ran a part of the exterior lines to locate the work; that he had no contract when he went into the field; that he signed the contract in blank, before he left the City of San Francisco; went into the field and run the standard lines, as stated by Vrooman in his affidavit, and thus ascertained where he wished the contract located. That he did not leave the field, but notified the office what tracts were selected, and they were then inserted in his contract. That after the contract was entered into, he did not re-run the lines surveyed in the location of the work, but that the dates were changed so as to show that the work had been executed after the date of the contract.

John M. Ingalls and Frank S. Ingalls also admitted to Special Agent Robinson that, under their respective contracts of July 1st, 1872, the dates given in the notes are not those on which the lines were actually run; that the work is all returned as having been done by Fairchild as compassman, but a part of it was run by Vrooman, and after he left, John M. Ingalls did some of the work with a second party in the field, perhaps one-fourth of the time. Commenced work about the 6th of July, and finished sometime near December 1st. That F. S. Ingalls also had a party on John M. Ingalls' work all the time, making three parties at work on two contracts, and that they worked together on the two contracts, the same as though it had been one contract. That they worked from the same camp, and sometimes the parties all worked in the same township.

Mr. Robinson examined the field-notes of surveys made under J. M. Ingalls' contract of June 15th, 1871, and found that the dates, in many instances, had been first written in pencil and subsequently in ink; and that an attempt had been made to erase the pencil marks. He also found the field-notes of a number of the surveys made under J. M. Ingalls' contract of July 1st, 1872, in the same condition. In the field-notes of nearly all the surveys made under Frank S. Ingalls' contract, the dates appear to have been written in different hand-writing or different ink, after the notes were written up. In some instances the dates appear to have been first inserted in pencil. John M. and Frank S. Ingalls furnished Special Agent Robinson with the pencil notes, prepared from the notes of their compassmen, of their surveys under contracts of July 1st, 1872, which I forward herewith. Some of these pencil notes are written by J. M. Ingalls and some by F. W. Clark, an employee. It will be seen by reference thereto, that no dates whatever are inserted. Mr. Robinson invited and gave John M. and Frank S. Ingalls an opportunity to put their statement in explanation of this matter, in writing under oath; but they declined to do so. Notwithstanding the fact, which is abundantly proven and admitted by John M. Ingalls that Henry Vrooman was employed by him as compassman for several weeks in 1871, and also for several weeks in 1872, it does not appear, by the field-notes or returns made to this office by the said Ingalls, that Vrooman was so employed, or that he executed any of the work in 1872, but the names of other compassmen, who did not do the work, and who had no personal knowledge of the manner in which it was executed, are inserted in the field-notes and returns, and, although it appears from the testimony of Ingalls that Vrooman was only employed a short time in 1871, and by Ingalls, to this office of surveys made in 1871, are so made as to show that he was in the field from the first of July till the 25th of October—nearly four months. And they further show, that he run the exterior and subdivisional lines of eight townships, which work it was impossible for him to perform in six weeks, except in the manner he swears it was performed under Ingalls' instructions, by omitting all the difficult work and only running lines over the smooth places, and making false field-notes, representing lines to have been surveyed which were in fact never surveyed. The false return by Ingalls, representing that Vrooman was in the field from the first of July to the 25th of October, was undoubtedly made for the purpose of preventing this office from discovering the fraud, which would have been apparent had his returns showed that Vrooman was only in the field six weeks.

A critical examination of Exhibit "C," filed with Henry Vrooman's affidavit of 10th of April, 1873, which is sworn to as his original pencil notes, and as having been returned to be copied in camp, shows undoubtedly that they were taken as a basis upon which to construct a fraudulent return of survey. On comparison with the official notes filed, the distances to streams and bearing trees, the size of trees marked, and the direction from quarter corners established, correspond in most instances in both cases. In other instances, they correspond so nearly that there can be no question as to their being the original notes. These notes show that Vrooman acted in accordance with such instructions as he says he received from Ingalls, and when he came to difficult work, he "turned back," and mentions the fact in his notes. The returns made to and filed in this office are so constructed or framed as to show that those lines were actually run. No random lines appear to have ever been located by Vrooman or any corrections made.

That the deputy knew that such work was being done, and in accordance with his instructions, cannot admit of a doubt, and that any one not surveying in the field could have manufactured the field-notes of an entire township, so nearly like the official notes, is impossible. I conclude that Vrooman's notes in pencil correctly represent and show the work that was actually done in the field, and that the lines have not been established by and in accordance with the manual of surveys; and that the surveys were executed incorrectly by the express instructions of Deputy J. M. Ingalls; that the field-notes returned by said Ingalls were not based upon any actual survey, except so far as the lines were run by Vrooman, and that so far as they represent other lines, so run by him, they are false and fraudulent, and that they were manufactured by Ingalls for the purpose of perpetuating a fraud upon the Government.

Mr. Wildes testifies, that the field-notes of these Dyer parties appear correct on their face. There are not as many corrections required after the field-notes are returned to the office by the parties, as is frequently the case with deputies whose work has never been called in question.

C. Bielawski testifies that more frequently complaints have been made against the Dyers and Ingalls than any other deputies in the service, for failing to find old corners when it was necessary for them to retrace old lines; that they do not appear to take sufficient pains to find them, and that, in some instances, confusion has arisen by the existence of double corners at considerable distances from each other. That a deputy is entitled to pay for retracing a line only when he fails to find the old corner.

Surveyor General Hardenburgh claims that he knows nothing of this matter of incorrect and fraudulent work in the field by deputies Ingalls, as charged by Vrooman and Fairchild.

J. A. Robinson, chief clerk, swears that Vrooman was a compassman for Ingalls in 1872.

E. H. Dyer admits that he employed Fairchild September 4th, 1872, for J. M. Ingalls, having received a letter from J. M. Ingalls that Vrooman had left him and desiring him to employ a compassman to take Vrooman's place; but knows nothing about the facts stated by Fairchild as to the manner in which Ingalls did his work.

W. F. Ingalls swears that he had a conversation with Vrooman in relation to the work done by him in 1871, in which Vrooman stated that "John" could not be much on the line with him; that he took the manual for his guide and was glad to know that he had the ability to survey a township.

John M. Ingalls swears that he executed his contracts faithfully; that he employed Vrooman as compassman in 1871, and gave him a manual of instructions to study, during his journey to the field, and he had it as his guide in the execution of the field-work; that he afterwards dismissed him, and that when Vrooman left, he readily subscribed to all necessary oaths. That the letter in pencil which Vrooman sent to Moore was manufactured, in whole or in part, and that he gave no such instructions as the letter contained to said Vrooman. That the statement of Vrooman, that he was instructed to survey a township in one week, is false. [But his returns for 1871 showed that Vrooman surveyed eight townships, although he was not employed but about six weeks, and nearly one month of that time was before the first of July, when he could not have legally performed any official duty.] That he, Ingalls, knew that a township could not be surveyed in one week, even on level ground. That his general instructions were, that where the land was rough and the lines could be extended no further, on account of the worthless character of the country, that he should give a description of the country in advance, as far as possible, in order that deponent could represent to the Office the reason for throwing off the remainder of the township not surveyable. [The manufactured field-notes, however, show that all the lines were run.] That Fairchild was hired, in 1872, by E. H. Dyer, at his, Ingall's request; that the manual of instructions were, at all times, accessible to said Fairchild. [But does not state that he furnished him with the manual of instructions, which he should have done.]

In the subdivision surveys of Tp. 1 S. R. 5 E., on which Vrooman swears he acted as compassman, J. C. Fairchild is represented as having taken his preliminary oath, August 20th, 1872, before J. M. Ingalls, in the field. During the month of July, in other subdivision work, Fairchild is represented as compassman, when, by his own affidavit, he was hired about August 30th, and by Mr. Dyer's affidavit. September 4th, 1872. Thus, being represented by Ingalls' returns as having taken the preliminary oath in the field, ten or fourteen days before having been hired in San Francisco, and is represented as surveying in the field nearly two months before he was hired, and when it appears by Ingalls' own oath that Vrooman, not Fairchild, was in the field; for Mr. Ingalls states that he hired Fairchild to take Vrooman's place, after Vrooman had left him. Therefore, it was impossible for him to have performed the work which Ingalls returns in his name, and it is conclusively shown that Ingalls falsely and fraudulently returned work in Fairchild's name which had been performed by Vrooman, and with which Fairchild had no connection whatever. And yet, in the face of these facts, disclosed by Mr. Ingalls' own returns to the Surveyor-General's Office and to this Office, Mr. Ingalls swears that Fairchild assisted in surveying every township to which his oath is attached. Said Fairchild could not have signed the oaths at the times and places certified to by Ingalls; but undoubtedly signed them in blank as he represents, and Ingalls afterwards inserted dates and attached them to work with which Fairchild had no connection whatever. The returns made by Mr. Ingalls to this Office fully prove his statement and attempted explanation of this matter to be false in almost every particular.

Mr. Fred. W. Clarke, clerk for Ingalls, denies that it was his duty to write up fraudulent field-notes, filed with the Surveyor-General, or that he has any knowledge of changing descriptions, &c.

Charles Whipple, axeman for J. M. Ingalls, states that he has no knowledge of the particular work referred to by Vrooman, but believes Vrooman's statement to be false.

Michael Hopkins, chainman, states that he assisted Ingalls in his whole contract in 1872, and believes the work to have been faithfully executed. and believes that said Ingalls was very careful; that he has frequently talked with Fairchild, and never heard Fairchild say anything detrimental to said Ingalls, as to his manner of making surveys.

Several affidavits are made by parties who claimed to have retraced lines and found the work done well.

Most of these affidavits relate to work done by Ingalls in 1871, and do not describe the particular lines they retraced, or how far they retrace them, and, consequently, have little or no weight, as evidence in relation to the charge of fraud in the work; and besides, it is not probable that they would attempt to retrace lines in mountainous and impassable regions, where the evidence shows the lines were not run.

William S. Chapman swears that he frequently tried to retrace the lines of Dyer's and Ingalls' work, and had found that some of their reported lines had never been run, and others had been run inaccurately. And that prior to Hardenburgh's appointment he informed Hardenburgh of these facts, and told him they were unreliable, and unfit to do Government work.

Hardenburgh denies this, and claims that he has no knowledge whatever of inaccurate work in the field by his deputies, or the matters charged by Vrooman and Fairchild.

The evidence in relation to this charge fully sustains it, and shows that deputies have been guilty of the grossest frauds and corruption, and that they have utterly disregarded the law and instructions relating to the manner of executing public surveys.

It further shows, that they have not only been guilty of frauds in the execution of their work, but that they have made false returns, and then made false statements, in this investigation, under oath, to conceal their fraudulent work and false returns. It is not clearly shown that Mr. Hardenburgh had personal knowledge of the manner in which they were executing their work in the field; but it is shown by the evidence in relation to this and the preceding charges, that in 1871 he allowed his deputies to proceed to the field and commence work about a month before the time the appropriation became available under the law, and that he afterwards accepted and approved their surveys, based on false and fraudulent returns, representing on their face that the work was executed after the 1st of July. This shows that he permitted and approved one fraud, in connection with the surveys under consideration, and concealed it from the Department and this office, and it is fair to presume, that if he would approve and cover up the frauds of his deputies in one matter, he could in another. At all events, if he had been a faithful and conscientious guardian of the interests of the Government, having knowledge of one fraud, he would have taken the necessary steps to prevent another, and declined to approve the work in which the first fraud was perpetuated, until the fullest investigation had been held. But, instead of doing this, he approved the surveys made in 1871, covered up the fraud which was known to him, and continued the deputies in the Government service in 1872. Such conduct deserves the severest censure and condemnation, and no faithful, honest official, having a due regard to the interests of the Government, could have been guilty of it.

CHARGE XI.

That the Surveyor-General and his chief clerk advance on the docket, and take up and dispose of cases out of their regular order, in consideration of a fee paid by the parties in interest.

Julius H. Mott testifies, that in a number of cases of mining surveys, which are named by him, they were taken up soon after their receipt in the office; that the work on this class of surveys has not been given out in its regular order.

E. B. Lasalle says, that many people having mineral claims before the office, frequently desire them to be platted and pushed through immediately, or at the earliest possible date after their receipt in the Surveyor-General's office, and not according to the date of their filing, which would have postponed their being taken up for from two to three months, in many cases, as they were delivered. For this purpose, they entered into an arrangement with the Surveyor-General and his chief clerk to permit the mining draughtsmen to do the work in extra hours, (outside of regular office hours), agreeing to pay them for such work through the Surveyor General or chief clerk. That the amount charged parties, in such cases, was from $25 to $40, in each instance, with perhaps a few instances where less or more was charged, and received by the Surveyor-General or chief clerk. That the Surveyor-General or chief clerk used to call upon him to do the platting, as extra work; offering and paying him, in hardly a single instance, as far as he can recollect, more than $12 for a set of (four) maps. In some instances, recollects to have been limited to $12, where he made a higher charge.

J. A. Robinson, chief clerk, states that several mines have been platted out of their order, by request of gentlemen high in authority, A few mines have been taken out of their order and platted for the accommodation of claimants, at their instance and request, they paying an "*agreed sum*" for said privilege. In every instance they have been informed that the mines would be platted in their order for the amount deposited for office work.

The Surveyor-General, referring to the statement made by Mr. Mott, says that "I have read the report submitted by J. A. Robinson, chief clerk, and filed herewith, in regard to the taking of mines out of their order, and the extra work done. I fully endorse his action in the premises and approve his report, and know he did not act wrongfully or improperly, but with my approval and consent.'

In reply to Lasalle's statement, he says that, in several urgent cases, he ordered that the plats should be taken out of their regular order and platted; and that he paid Lasalle for all the extra work he ordered, and that in all cases the parties were informed by himself or the chief clerk that the money deposited for "salary" or "office work" would plat their work, if not taken out of its order.

The law under which these mineral surveys are made, requires the party to deposit a sum sufficient to pay the expenses of the same, and this amount is deposited to the credit of the Surveyor-General. The Surveyor-General estimates the cost of the work in the first place, and the amount estimated by him is deposited. Taking the case out of its order does not increase the cost. Therefore, the reception of money by the Surveyor-General for taking cases out of their order, amounts to nothing more nor less than the acceptance of a bribe by him for that service. As Mr. Hardenburgh admits the charge and endorses the statement of his chief clerk, he stands convicted of giving a precedence to cases, not because of any peculiar or meritorious circumstances demanding prompt or hasty action, but for a bribe. So many pieces of gold or silver, not for work to be performed, for that is paid for out of the deposit, but merely for giving the case precedence on the docket. This is not only a grave offense, but it is grossly corrupt and criminal.

CHARGE XII.

That the Surveyor-General permits his clerks and draughtsmen to execute work out of office hours, and charge fees for the same, and exacts from them one-half of the compensation which they receive for such services; and that he employs clerks, and the draughtsmen who are paid by the Government for the work which they perform, during office hours, in making copies upon which he charges a fee, and appropriates one-half, or the whole thereof, to his own benefit. That he charges a fee of $20 for his opinion or report to the General Land Office in all ranch cases, which he divides with an employee in his office; and that he charges a fee of $3 for skeleton township plats, showing the approximate location of Spanish grants, which he is required to send to this office.

Mr. Frank L. Palmer states, that when transcripts of maps are ordered, the order and money are generally passed over to the chief draughtsman, who makes the required copy, or has it made by one of the draughtsmen out of office hours. As far as he knows, transcripts of field-notes and other records are all copied during office hours by a clerk detailed for that purpose, who is paid out of the appropriation; that the Surveyor-General receives the fees for all such transcripts. Where an outside party requests a clerk to make a transcript, the clerk is allowed to do so out of office hours, and to charge 20c. a folio, one-half of which is required to be paid to the Surveyor-General. That young Mr. Hopkins, who is now on the rolls at a salary of $2,000, and who had previously received a salary of $1,800, has been engaged in making copies and tracings of maps and diagrams, as well as tracings of Spanish documents, and that the Surveyor-General received the fees paid for such copies and tracings. When a private claim has been received, the claimants are required to deposit a sum sufficient to pay all expenses of the adjudication of the case. Among the items charged against this deposit are cost of survey, advertisements, copies of maps, descriptive notes, translations, copies of decrees of the Court, and decisions or opinion of the Surveyor-General. The maps are made by the draughtsmen out of office hours, and they get their charge for so doing. The descriptive notes are generally made out of office hours, and half of the charge therefor goes to the Surveyor-General. Believes half the charge for translations, copies of diseños, &c., goes to the Surveyor-General. Thinks that some of the draughting, translations and copying, and for which extra pay is received, has been done during office hours. Has been with the Surveyor-General on four trips, in which he made swamp-land investigations. Received his salary from the Government while he was absent, and was paid by the parties at the rate of twenty cents a folio for taking down testimony. Paid his own expenses while away, and gave the Surveyor-General one-half of what he received. He further testifies to the fact, that the Surveyor General charges a fee for his opinion in ranch cases, and also that he charges a fee of $3 for skeleton township plats, which are made by the draughtsmen during office hours.

Mr. Hardenburgh states, that when field-notes were ordered made, he has given the order to the different clerks to copy, and paid them one-half of the amount received. States that when R. C. Hopkins, keeper of the archives, left last year, he placed his son, H. T. Hopkins, in charge; and that when he was not occupied with the records and archives of the office, he gave him field-notes to copy for Washington, and for the office, and when any papers were to be copied, he made the copies. That it was agreed by and between the Surveyor-General and R. C. Hopkins, that the money received for extra work done by H. T. Hopkins should be paid by the Surveyor-General to R. C. Hopkins, which he has done. He admits Palmer's statement, that he has charged for descriptive notes, and that he has permitted his clerks to make such descriptive notes in the evening, after office hours. Has charged a reasonable amount for such work, and divided equally with said clerks. He further says, that he has followed the rule established by his predecessor, and charged a fee of $20 for his opinion in ranch cases, which sum he has divided equally with R. C. Hopkins. And that he has received $3 each, for all skeleton plats sent to Washington.

R. C. Hopkins states, that, on his return, after a protracted absence, Mr. Hardenburgh presented him with an account of all the copies of papers made by his son during his absence, and also the amounts which he, Mr. Hardenburgh, received for said copies, and that for the extra work so done, Mr. Hardenburgh has settled with him.

Theodore Reichert, clerk in the office, admits that he copied field-notes a portion of his time, in office hours, for outside parties, generally for the Deputy-Surveyors who were in the field, or going into the field; but that he does not know whether the Surveyor-General received pay for the same or not.

J. H. Wildes states, that when an application is made for a copy of a map, or traced copy, it is made outside of office hours by one of the draughtsmen, who receives the amount of the fee charged. Where the application is for a certified copy, the Surveyor-General receives $1.50 for his certificate, and the draughtsman gets the rest of the fee. That this work is done out of office hours, except in a few cases. That he knows nothing about copies of field notes, or copies other than maps. When private parties apply to him for copies of maps, he makes them as extra work out of office hours, and charges them for it.

[This Hardenburgh admits.]

R. Gibbons states that when the Surveyor-General received an order for a copy of a map or diagram, it was turned over to Mr. Wildes, or one of the regular draughtsmen, such work being done during the regular office hours, and whoever makes the copy gets the fee therefor. The Surveyor-General always requires $1.50 for each map or diagram. That a large number of maps have been furnished the State Surveyor-General and the railroad company by the United States Surveyor-General; but he does not know what he charged for them. That the draughtsmen received $5 a piece for making the plats, from the Surveyor-General, he $10 out of the amount which he was to receive for work of that kind. That he asked the Surveyor-General about the $10, and he stated that he could not afford to pay out all the fees of the office.

The Surveyor- General admits, that he gave Gibbons the map to make out of office hours and collect $10 for it—handed him one-half of the $10 so collected, and kept the other $5. That Gibbons objected to this, saying, that the Surveyor-General was making more money than he was; to which he replied, that he had given bond for the faithful performance of the duties of the office, and was entitled to something, and that he claimed one-half of the receipts for work done in the draughting-room.

C. Bielawski admits that he has been paid extra for work on plats. That he was in partnership with Mr. Wilders in some parts of the extra work done. He states, that, where private parties desire copies of plats, for their own use, work is done after office hours, and it is paid for by the parties. That where the map is to be certified, the Surveyor-General gets $1.50 for his certificate, out of the amount charged. That, where the order comes from the Surveyor-General, the draughtsmen state what they are willing to do the work for, and they are paid that price by the Surveyor-General. The Surveyor-General makes such charge as he sees fit. Thinks over one thousand township plats have been copied for different parties, since General Hardenburgh came into office; several hundred of them were ordered through him.

John M. Ingalls, E. Dyer, W. F. Ingalls, and Wm. Minto swear to having paid the draughtsmen for plats, made at various times.

C. Bielawski states that some of the work was done during office hours.

Wm. P. Casey states, that in 1871 he made several hundred maps for the Southern Pacific Railroad Company, and received

$3.50 a copy, the first month, after that, $3 a copy; Mr. Wildes being unwilling to pay more, in consequenc of the Surveyor-General having to be paid some proportionate sum for the making of each; although said Surveyor-General had not to sign them, or certify as to their correctness. That during a part of the time, while he was at work on these plats, he was employed as draughtsman in the office; but that what work he did on the plats was out of office hours.

J. F. Wildes, referring to this, states, that he informed Hardenburgh of his contract with the railroad company, to make these maps. That he consulted his partner, Bielawski, who thought it best to pay Hardenburgh, as Mr. Day had required a percentage on business having no official character; and that they did pay Mr. Hardenburgh, as the work went on, certain sums, the exact amount of which he cannot state, as he kept no account. That he told Mr. Casey he could not pay him his old price of $3.50 per plat, as he had to furnish material and pay a percentage, and afterwards paid Mr. Casey but $3 a plat.

J. H. Mott states that he saw Mr. Lasalle at work making plats of certain mines, after office hours; and that, in some cases, Mr. Hardenburgh authorized Mr. Lasalle to make the plats as extra work, and informed him that he had made arrangements with the parties, and had given Mr. Lasalle a share. He further states, that Mr. John A. Robinson, chief clerk, received $25 from Mr. Raulet, as extra work on the Union Copper Mine, and that Mr. Lasalle made the plats, and he copied the field-notes during office hours, but that they received no compensation therefor. That the Surveyor-General's rule has been, that, when application is made by private parties, for copies of official letters, land commission papers, ranch field-notes, and field-notes of public surveys, when such copies are made out of office hours, the clerk making such copy gets one half, and the Surveyor-General the other half of the fees; and that, when the copies are made during office hours, the Surveyor-General receives and retains the entire fee. That the Surveyor-General has repeatedly stated to him, that he claimed these fees as his own perquisites, and only gave the clerks a chance to do some of the extra work after office hours, with half the fees, as a matter of accommodation. That sometimes these fees were collected by the Surveyor-General, or chief clerk, and at other times by the clerk who did the copying. That Theodore Reichert has been engaged a large portion of his time, for a year past, during office hours, in making copies of field-notes, of public surveys, and ranch surveys. That H. T. Hopkins has been partially employed since he has been in the office, during office hours, in making tracings of land commission and private claim papers, together with some township work, for which the Surveyor-General received all the fees. That the Surveyor-General has stated to him, that he has received pay for all the plats and lists, from the State Surveyor-General, or private parties, who claimed the land as swamp under the State. That

Messrs. Field, Cox and Kraus, each, made some of these plats during office hours. The plats are each made in triplicate. That the lists were all made by him, Mott. That a few of the lists were made by him after office hours, and for compensation. He made a large majority of them during office hours, without extra pay. That General Hardenburgh paid him for those made out of office hours and. that he stated that the amounts paid him were one half of what he had received.

Mr. Hardenburgh, replying to this, denies that Mott has paid him one-half of the money he has received for work done in the office; but does not deny that he charged parties in interest for the work, or that he employed Mott to do it, and paid him for extra services rendered.

E. B. Lasalle testifies, that the Surveyor-General and his chief clerk charged parties fees for taking up cases out of their regular order, and gave out the work as extra work. assigning a part of it to him, for which they paid him portions of the fees which they had received. That the Surveyor-General employed him on his own work during office hours. That the time he was thus employed on Mr. Hardenburgh's private work was about one month. That when he had made arrangements with private parties to do the work, outside of office hours, and for which he charged compensation, Mr. Hardenburgh told him that he ought to have sent the parties to him—that he was the proper person with whom arrangements for extra work should be made; that he, Lasalle, had acted wrong; that he. Hardenburgh, had always been liberal with him, and divided with him whenever any extra work came in; that these were his, Hardenburgh's fees; that if it was not for the fees, the office would not be worth a damn. That in the case of the Union Copper Mining and Canyon Creek Placer mines, Mr. J. A. Robinson, Chief Clerk, received $25 and $30, respectively, and that the work was done in office hours.

R. C. Hopkins states that it is the established custom of the office to permit the clerks employed to work out of office hours, and to charge reasonable fees for the same. These fees were for work certified by the Surveyor-General, being divided between the clerks executing the same in the office.

That he has often worked at such copies during and after office hours, and that this kind of work has been paid for by the parties desiring the same. That during the administration of Mr. Day, the office being almost without funds and short of assistants, he, at Mr. Day's request, assisted him in making reports on the surveys of ranchos.

That Mr. Day made a charge for these reports, and of the fees so charged Mr. Day voluntarily gave him a portion, in cases where the work was done by him, and that when the present Surveyor-General, Mr. Hardenburgh, took charge of the office, he remained with him and assisted him until the 26th of last December, and generally wrote up the reports in ranch cases, but not until the Surveyor-General was put in possession of the facts and fully understood them, and that when his reports were written up, they were submitted to Mr. Hardenburgh for his inspection. That Mr. Hardenburgh has continued the custom of charging a fee for these reports, and has divided the same with him.

Mr. E. H. Dyer testifies to having employed the draughtsmen at various times during Mr. Hardenburgh's term of office, and previously, to make plats, paying them large sums of money. That they work on them during the hours known as office hours, and that they take any job-offers from private individuals and private surveys, laying aside work belonging to the Government, to execute this private work in office hours. That he has tried to avoid paying them for the maps made between the hours of 10 o'clock A. M. and 3 o'clock P. M., but that they, in most instances, have demanded pay for all alike; and that this was the case with 41 plats that he had made as agent for deputies in 1871, and for which he paid the sum of $328. That when Mr. Hardenburgh became aware of this payment, he forbade any more money being paid to draughtsmen, and said that the Government furnished sufficient means for doing this work, and that these draughtsmen should not receive double pay for doing their work.

Mr. Hardenburgh furnished M. B. Robinson, Special Agent, a partial statement of perquisites, in the way of fees. received by him from February 17th, 1871, to July 8th, 1873, the aggregate amount being $3,774, of which amount he claims to have paid to his subordinates for descriptive notes, copying translations, opinions, &c., $1,660, leaving a balance of $2,114 in his own pocket, making the sum, as above stated, of $3,774, illegitimately appropriated by Mr. Hardenburgh and his subordinates, according to his own admissions. But none of them pretend to have kept accurate accounts of moneys received, or to be able to give any de-finite statement as to the actual amount, and, therefore, it is impossible to determine just how much they have extorted from the people having business with the office. But it is evident, from the evidence in relation to the amount charged in particular cases, and the number of cases in which they have charged fees, that this only constitutes a very small portion of what they have actually extorted and appropriated.

Mr. Hardenburgh also makes a statement of an additional item of $2,616, received by J. H. Wildes and his associates, &c., in ranch cases, which I infer was paid out of special deposits, for the survey of private land claims.

J. M. Ingalls testifies that he had draughtsmen platting nearly all his work, when Surveyor-General Hardenburgh forbade it.

W. F. Ingalls also testifies to having paid the draughtsmen for extra work, and that it was understood by deputies, that in order to get the plats sent on to Washington in a reasonable time, it is necessary to pay the draughtsmen something extra, and that, when so paid, they have taken the work right up. In one instance, it cost him $120 to get his township platted; and that he has seen the plats of said townships worked upon in office hours. That the Surveyor-General blamed him for paying the draughtsman in 1871.

A glance at the testimony and Mr. Hardenburgh's admission will satisfy any one, that the matters contained in this charge are fully proven; that Mr. Hardenburgh has not only levied an illegal tax upon the time, labor and private earnings of individuals holding positions under him, when, by his permission, they did work out of office hours, and he had no right to control their time, services or earnings; but that he employs the clerks and draughtsmen in his office, who are paid by the Government on private jobs, during office hours, for which he charges fees and appropriates one-half, or the whole thereof, to his own use and benefit, thus diverting the appropriation made by Congress for clerk hire, from its legitimate object to private purposes, and enriching himself at the expense of the Government. Many of these fees are for services for which he has no right to charge, and, therefore, he is not only guilty of robbing the clerks and the Government, but the people who have business with his office. I can scarcely imagine anything more reprehensible and disgraceful than this practice. Any Departmental or Bureau officer has as much right to levy a tax upon the earnings of the clerks in his department or bureau, for work done out of office hours, or to employ their time during business hours, and charge for it, as Mr. Hardenburgh has; and yet, there is not one of them that would not consider it a gross, personal insult for any one to suggest such a thing to him. Mr. Hardenburgh cites the practice of his predecessors as a justification, and pleads a prescriptive right to indulge these illegitimate, dishonorable and disgraceful practices. His predecessors were not on trial before me, and I am not called upon to investigate their conduct; but if they were guilty of such practices, they deserved not only dismissal, but criminal prosecution at the hands of the Government.

No wrong can become a right by lapse of time. If an officer is to be justified for his misdeeds by citing the acts of his predecessors, the man who follows a scoundrel or thief can do as he pleases, and escape punishment. Every officer should be governed by the law, his official oath and the principles of common honesty, and no precedent whatever can justify a violation of either. But if pleading a precedent could be admitted as a palliation or justification for such practices, under other circumstances, it cannot be in this instance, for the reason that this office, as early as July 1st, 1871, directed the attention of Mr. Hardenburgh to the fact, that he had been charged by an article in a San Francisco newspaper with exacting illegal fees from parties having business with his office, and demanded an explanation. Mr. Hardenburgh replied, on the 17th of July, evading an explanation or statement of facts, but saying that the party who preferred the charges had called upon him and acknowledged himself in the wrong. On the 14th of August, 1871, I again wrote to Mr. Hardenburgh, to the effect that his answer of July 17th was not satisfactory, and demanded a statement of the facts, that this office might be able to form its own judgment as to the nature of the transaction. To this demand Mr. Hardenburgh made no reply whatever, but remained silent until Mr. Robinson commenced his investigation. Then the proof was so clear as to compel Mr. Hardenburgh to plead guilty, and cite the practice of his prededecessors as a justification. He had probably forgotten that he had, two years ago been called to account, and failed to report the facts, doubtlesss for the reason that he knew the facts, he would be compelled to abandon the practice of charging illegal fees, and blackmailing his clerks, and would, as a consequence, be deprived of that source of his income.

But it is claimed that Mr. Hardenburgh attempted to discontinue the practice of charging extra for making plats of surveys to be forwarded to this office. The effort must have been a feeble one, as his draughtsmen continued the practice, and were retained, and are still retained in office. Another notable fact, in connection with this effort to break up the practice is, that it was confined to a class of work in which the draughtsmen had become so bold and independent as to decline to divide fees with the Surveyor-General, and was, mainly, in relation to surveys in which the evidence strongly tends to show that Hardenburgh had an interest of some sort, while he made no effort whatever to prevent illegitimate charges in other cases, and when a moiety of the fees went into his own pocket, but continued to charge extortionate and illegitimate fees in all such cases. Further comment is unnecessary.

CHARGE XIII.

That the Surveyor-General transacts the business of his office in a loose and unsystematic manner, and does not exercise the proper supervision over his subordinates, but allows them to furnish copies of record and information to all parties who will submit to their extortions, and pay them for the same, regardless of the public interests, and to the delay and hindrance of official and public business.

Nearly every page of the testimony contains evidence to support this charge. The testimony of several parties, and the admission of Mr. Hardenburgh, show that the contracts were signed in blank, and acknowledged and witnessed without the presence of the parties; that deputies are permitted to go into the field, in advance of the complete execution of their contracts, and locate the work, not according to the requirements of law, or the interests of the Government, but wherever they can find the easiest work; that he has leased a part of his office, for which the Government pays rent, to a private individual, and received pay therefor, and either appropriated it to his own use, or expended it in an unauthorized and illegal manner.

The Surveyor-General, in his attempted explanation, throws the responsibility for most of the irregularities on his clerks, claiming that he has issued proper instructions; but, at the same time, shows that he has signally failed to compel obedience, or secure a compliance with his orders and regulations. He charges his draughtsman with delaying work for the purpose of securing fees from the parties interested, but continued, and still retains them in office.

The tabular statement of mining cases, sworn to by Messrs. Lasalle and Mott, returned to this office by Special Agent Robinson, shows clearly, that no order or system is observed in reference to the disposition of such cases. It is also shown by the evidence, that influential parties, or persons with money, can have cases taken out of their regular order, and disposed of whenever they wish. That parties desiring copies of papers and records, instead of being required to go to the Surveyor-General, or his chief clerk, are permitted to apply to any of his subordinates, and secure the privilege, by the payment of such fees as they may exact, the same to be divided with Hardenburgh; and everything seems to be done in a sort of haphazard way.

But it is useless to go farther into details in this matter, as you will find, disclosed by the testimony accompanying this report, evidence of a lack of supervision on the part of Mr. Hardenburgh, of want of discipline in the management of his force, and an utter lack of system in the transactions of business. In short, the evidence shows, clearly and conclusively, that Mr. Hardenburgh is not only incompetent, but that he is thoroughly corrupt and dishonest; that he has extorted illegal fees from the people, and pocketed the same; that he has levied blackmail upon his clerks, for work done out of office hours; that he has defrauded the Government out of its appropriation for clerk hire, by using the clerks on private jobs during office hours, for which he charged and collected fees for his own use and benefit; that he has covered up the frauds of his deputies, and approved their work, knowing their returns to be false and fraudulent; that he has taken cases out of, and disposed of them in advance of their regular order, for an "agreed price," or bribe; that he withholds triplicate plats of surveys from the local land offices, and compels settlers having an interest in lands covered by such surveys, to pay exorbitant fees for making and forwarding the same to the local office; that he allows E. H. Dyer to have virtual control of the letting of contracts, and the Government appropriations for surveys; that he has not exercised reasonable diligence in preventing frauds by his deputies; and, in general, has managed the affairs of his office with a view to enriching himself at the expense of the Government, of his clerks, and the people having business with his office, and not with a view to securing or protecting the interests of the Government.

In his defense, Mr. Hardenburgh has raised a number of side issues with Chapman, Moore, Carr, Mott, Vrooman, his draughtsmen and others, but as these have but little or no bearing on the question as to Mr. Hardenburgh's guilt or innocence, I have not thought it necessary to refer to them. The material questionfor determination is, that which relates to the guilt or innocence of Mr. Hardenburgh. The fact that other parties have been guilty of misconduct or fraud, cannot relieve him. It can only be considered in determining the character of the witnesses for credibility, and if we strike out the name and testimony of every witness whose character for veracity Mr. Hardenburgh attempts to impeach, there is sufficient in the testimony of his own witnesses, the records of his and this office, and his own statements and admissions to prove him guilty of the most serious charges, and convict him of incompetency and dishonesty; in fact, we need not go further than his own sworn statements and admissions, in explanation of the charges, to convict him.

I am, sir,

Very respectfully, your obd't. serv't.,

(Signed) WILLIS DRUMMOND,

Commissioner.

ORGANIZATION,

ACTS AND REGULATIONS

OF THE

U. S. LAND COMMISSIONERS,

FOR CALIFORNIA;

WITH THE OPINIONS OF

COMMISSIONERS HALL AND WILSON

ON THE REGULATION TO ALLOW ADVERSE CLAIMANTS TO INTERVENE IN THE ORIGINAL CASES; AND

COMMISSIONER THORNTON'S OPINION,

DISSENTING FROM THAT REGULATION.

ALSO

A LIST OF LAND TITLES

PRESENTED TO DATE.

SAN FRANCISCO:
MONSON, WHITTON & CO., PRINTERS,
Commercial Power Presses, 272 Montgomery St.
1852.

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U. S. LAND COMMISSIONERS.

ORGANIZATION AND ACTS OF THE U. S. LAND COMMISSIONERS IN CALIFORNIA.

COMMISSIONERS.

Hon. HILAND HALL, of Vermont.
" HARRY I. THORNTON, of Alabama.
" JAMES WILSON, of New Hampshire.
GEO. W. COOLEY, Esq., of Massachusetts, Law Agent.
GEO. FISHER, Esq., of Texas, Secretary.

CLERKS.

John R. Kittrel, of Mississippi.
Charles Hall, of Vermont.
John Clar, of California.
M. R. Palmer, of California.
James T. Overstreet, California.
David F. Douglass, of Tennessee, Marshal.

On the 19th August, 1851, the Commissioners were required by the Secretary of the Interior, to meet at Washington City, on the 10th September following, to enter upon the duties of their office.

On the 11th September, 1851, the President of the United States, directed the Board to hold their first session at the City of San Francisco, in the State of California, on Monday, the 8th day of December, 1851, and to give public notice thereof accordingly; which was done on the same day by the Commissioners.

On the 8th December, 1851, Commissioners Hall and Wilson met at San Francisco. Commissioner Thornton, and Secretary Carr, absent. Adjourned to 31st December, 1851.

On the 31st December, 1851, the majority of the Board met; also, the Law Agent present. Commissioner Thornton and Secretary Carr absent. Board organized in part, and proceeded to business, preliminary to its full organization, and adjourned to January 21st, 1852.

On the 21st January, 1852, the Board met and organized in full, appointing Commissioner Hall, Chairman. Adopted rules and regulations for its government, and for the order of its proceedings, and ordered the same to be printed—containing the eighth and ninth articles of the treaty with Mexico, signed at Hidalgo, on the 2d February, 1848 — the Act of Congress, approved March 3d, 1851, creating the Board — the instructions to Commissioners from the Department of the Interior, September 11th, 1851; and the regulations of the Commissioners of the 10th January, 1852, for distribution and public information—declared its session permanent, and commenced receiving the petitions and notices of claimants.

On the 31st January, 1852, J. B. Carr resigned his office as Secretary, which having been accepted, Geo. Fisher was appointed on the 2d February to fill the vacancy, *pro tem;* which appointment was on the 1st April, 1852, confirmed and made permanent.

On the 9th February, *additional regulations* were adopted, authorizing parties to contest the rights of the claimants by means of intervening, in the original cases.

REGULATIONS OF THE COMMISSIONERS.

THE mode of bringing the claims specified in the Act of March 3, 1851, before the Commissioners, shall be by petition in writing, signed by the claimant or his counsel, addressed to the Commissioners, and filed with the Secretary of the Board, which petition shall set forth the names of the original and present claimants; the nature of the claim; the dates of the original grant and of the several assignments or conveyances, with the names of the parties thereto, through which the present claimant deduces his title; from whom the original title was derived; the power or authority under which the granting officer acted; the quantity of land claimed; its locality; when surveyed and when certified by the Surveyor General, (if thus surveyed and certified;) and the nature and extent of every known interfering claim; with a reference to the documentary and other evidence relied upon by the claimant; and said petition shall be accompanied by a copy of the original grant and a translation of the same, or by reasons for not furnishing them.

If the claimant desires to prosecute his claim in person, he will, on application for that purpose, be aided by a Clerk of the Board in the preparation of his petition, without charge; and will be allowed all proper facilities in the prosecution of his claim.

The Commissioners as a Board, or at their several chambers, will attend to the taking of testimony in behalf of the claimants or of the United States, in cases which are prepared therefor, on due notice being given to the Law Agent or the claimant, as required by law.

The Commissioners will from time to time, as occasion may require, adopt and make known such further rules and regulations as shall seem best calculated to facilitate the prosecution of the business before them, and to bring it to a speedy and satisfactory termination.

The Commissioners will be in session for the reception of claims and the transaction of business on the twenty-first day of January, instant, and until otherwise ordered.

OFFICE OF THE COMMISSIONERS,
San Francisco, January 10th, 1852.

By order of the Board:

J. B. CARR, Secretary.

In relation to the Rules above promulgated by the Board, H. I. Thornton most respectfully dissents from his brother Commissioners, in the particular of the regulation, as to the preparation of the petition of claimants by a Clerk of the Board; and without specifying at large the grounds of his objection, enters this as evidence of his dissent.

H. I. THORNTON, Commissioner.

I certify the foregoing to be a correct copy of the original on file in this office.

GEO. FISHER, Sec'y.

San Francisco, May 7th, 1852.

* * *

February. 9th, 1852.

The following regulation was adopted by the Board—viz:

When the same tract of land, or a portion of it is claimed adversely under Spanish or Mexican titles by two petitioners, either or both of them, may file a motion in the case of the other, for leave to appear and contest the right of the petitioner to a confirmation of his claim; which motion shall describe, with as much precision as practicable, the land thus adversely claimed; and upon the granting of such motion, the petitioner will be required to notify the contesting claimant or his counsel, as well as the Law Agent, of the time and place of taking evidence, and such claimant or his counsel, may appear and cross-examine witnesses, and may also attend to the taking of testimony against the petitioner, and be heard in the argument upon the question relating to his interfering claim.

I certify the foregoing to be a correct copy of the records of this office.

San Francisco, May 7th, 1852.

GEO. FISHER, Sec'y.

OPINION OF A MAJORITY OF THE BOARD, AUTHORIZING PARTIES TO CONTEST THE RIGHTS OF CLAIMANTS BY MEANS OF INTERVENTION IN THE ORIGINAL CASES.

SAN FRANCISCO, Feb. 9th, 1852.

At a previous day, Messrs. CLARK, TAYLOR & BECKH, by Mr. JEREMIAH CLARK, had submitted to the Board, the following motion, viz:

Now, at this day, come Maria Louisa Greer, and Manuela Copinger, by CLARK, TAYLOR & BECKH, their Attorneys, and move the Court for permission to file a petition and claim to all that tract of land known as Cañada de Remundo, and which constitutes the western part of the tract claimed as "Las Pulgas," in the petition of Dona Maria de Soledad de Arguello, and others, now pending before this Board, and that the two said petitions be docketed and heard together, as of the same cause.

The motion having been argued by Mr. CLARK, Mr. JOHN WILSON, Mr. STRODE, Mr. PEACHY, and by Mr. COOLEY, the Law Agent, the opinion and decision of a majority of the Board was this day delivered by Commissioner HALL.

OPINION.

Doña Maria de Soledad de Arguello having duly filed her petition and claim before the Board, to a tract of land called Las Pulgas, Maria Louisa Greer and Manuela Copinger, alleging that they have a just claim to a portion of the same land, move the Court in effect for permission to appear and defend against the claim set up in the petition, and to maintain their own right before the Board.

The question whether conflicting claimants to the same land shall be permitted to contest their claims before the Commissioners, and if so, in what manner, is perhaps one of considerable practical importance to claimants, and from the different views of the several gentlemen of the Bar, who have argued the question before us, as well as from our own inability to bring our minds entirely together upon it, I am bound to consider it as also a question of doubt and difficulty.

By the treaty of peace with Mexico, of February 2, 1848, a boundary line between the two governments was defined, by which a large extent of territory, embracing the present State of California, which had formerly belonged to Mexico, became the territory of the United States; and it was provided in the treaty that Mexicans, as well those who were established in the territory as those who were not, might retain the property they held in such territory, and might dispose of it as they pleased. Without any treaty stipulation, the property of Mexicans thus situated, would doubtless have been entitled, by the law of nations, to such protection from the government of the United States.

When a Mexican held property in a territory thus relinquished to the United States, to which he had an absolute and perfect title, the treaty, so to speak, would execute itself. In regard to all personal property which belonged to him, he might at once, on the ratification of the treaty, have maintained an action in our courts for any injury done to it. So if he were possessed of real estate, of which he had a grant, which was valid to pass the title from the Mexican government to him, he would require no aid from the government of the United States to maintain his title, other than to be allowed the common privilege of every citizen to appear and prosecute it in our judicial tribunals. The government of Mexico, having in such case parted with her title to the land, and transferred it to one of her citizens, no interest in it would pass, by the treaty, to the United States, but the citizen would retain the same right to it, and a similar power to enforce the right, which he had while under the government of Mexico.

But a large portion of the lands in this State, claimed by individuals under the Mexican government, were supposed to rest on incomplete and imperfect grants—on proceedings of the Mexican or Spanish authorities which constituted the incipient and preliminary steps to a perfect title, and which, if the territory had continued under the Mexican rule, might have been recognized by those authorities as sufficient to entitle the claimant to a full and perfect grant. By the terms of the treaty, as well as by the law of nations, an obligation was imposed on the government of the United States to do, in such cases, that which, according to the common course of proceeding of the Mexican government she would have done. This is a political obligation, which could not be performed by our courts of justice, acting in their ordinary judicial capacity. I think it was principally to perform this obligation, and in a manner convenient to claimants, that this Board of Commissioners was constituted, though the separation of the public lands from those of individuals, was doubtless an important object.

The mode of performing treaty obligations in regard to land titles, through the instrumentality of commissioners, is not new in the United States. By the treaty of Paris, of April 30, 1803, the United States acquired territory to an almost indefinite extent on the west of the Mississippi and Iberville, out of which has since been carved the greater part of the State of Louisiana, and the whole of Arkansas, Missouri, and Iowa; and to the east of those rivers, as was claimed by our government, our acquisitions extended as far as the Perdido, embracing portions of the present States of Louisiana, Mississippi and Alabama. By the treaty with Spain, of February 22, 1819, the Floridas were ceded to the United States.

Under the obligations imposed by those treaties, numerous Boards of Commissioners have been constituted. The duties of such Commissioners have, in general, consisted in deciding upon such grants as were deemed perfect, and in reporting, for the information of Congress, upon imperfect and incomplete titles, arranging them into classes according to the character and amount of the evidence adduced in their support. Upon the evidence so reported, Congress has from time to time, passed various acts confirming those titles which, being sustained by the strongest testimony, had been arranged by the Commissioners to the higher classes.

On the 26th of May, 1824, Congress opened the District Court of Missouri, and the Superior Court for the Territory of Arkansas, for the hearing of claims to lands under the treaty of 1803, which had been made by "virtue of any French or Spanish grant, concession, warrant or order of survey legally made," and which had been protected by the treaty, "and which" (in the language of the act) "might have been perfected into a complete title, under and in conformity to the laws, usages and customs of the government under which the same originated, had not the sovereignty of the country been transferred to the United States." And such Courts were directed to proceed in the hearing of claims "according to the rules of Courts of Equity," and "by a final decree to settle and determine the question of the validity of the title according to the law of nations; the stipulations of any treaty, and proceedings under the same; the several acts of Congress in relation thereto, and the laws and ordinances of the government from which it is alleged to have been derived." The act allows an appeal by the claimant to the Supreme Court of the United States; and its leading provisions were, by act of May 23, 1848, extended to claimants of lands in Florida, under the treaty of 1819.

These acts of Congress appear to be the basis on which the act constituting the present Commission was founded. That it was intended to embrace the same class of imperfect titles, and to provide for their confirmation or rejection on principles similar to those which had been applied under the acts of 1824 and 1828, cannot, I think, be doubted. This is shown by the general scope of the act, and particularly by the rules of decision on the validity of titles, which are almost identical with those specified in the act of 1824, with the addition to them of the decisions of the Supreme Court since made under those acts, so far as they should be found applicable.

I have been thus particular in stating the character of the duty which I conceive we are called upon to perform by the act constituting the Commission, and of the titles upon which we are principally to act, because I deem it important to a right understanding and a correct decision of the question now under consideration to have it borne in mind that it is chiefly on inchoate and imperfect titles that we are called upon to act, and that in deciding upon their validity we are exercising for the legislature of the nation a political rather than a judicial authority.

In the determination of the motion now under consideration, two questions may arise.

First—Whether Mrs. Greer, who makes the application in the present case, has any legal interest in its decision. And

Secondly—If she have such an interest, what would be her proper mode of protecting it.

It has been said that the motion in this case should be denied, because the party making it is not interested in our decision on the present claim; that the act constituting the Commission does not contemplate that the Commissioners shall decide on the rights of conflicting claimants, but only upon the rights of each individual claimant as between him and the United States, and that the act of Congress has provided other and ample remedies for conflicts which may grow out of any decisions of ours, under which patents may be issued to different persons for the same land. I have not been able to take this view of the duties of the Commissioners, or of the effect of their decisions.

If Mrs. Greer has a claim to the land or any portion of it, described in the present petition as Las Pulgas, (unless her title to it is complete and perfect,) I think she is directly interested to the extent of her claim, in the decision we shall make. I take it to be a principle well settled and applicable to every grant, whether made by an individual or the government, that the grantor can pass no greater estate than that which he holds. If he have no title, none passes to the grantee. After the United States has issued a patent to one individual, there is nothing left in the government to convey to another. If, therefore, we make a decision in favor of the claim of Mrs. Arguello, on the present petition, and a patent is issued upon it, any subsequent decision of ours that Mrs. Greer had also a title, good against the United States, would be of no avail to her. The United States having parted with all their interest in the land before they undertook to convey to her, her patent would be a mere nullity.

This doctrine I understand to have been recognized and established by the uniform and repeated action of the Supreme Court of the United States. The cases of Polk's Lessee *vs.* Wardwell, 9 Cranch, 87; Patterson *vs.* Winn, 11 Wheaton, 380; U. S. *vs.* Arredando, 6 Peters, 738; New Orleans *vs.* the U. States, 10 Peters, 662; and numerous other cases, either affirm or assume the correctness of this doctrine. In the case of Chouteau *vs.* Eckhart, 2 Howard's Reports, 344, the precise question which would arise if we were to direct separate patents to be issued to Mrs. Arguello and to Mrs. Greer for the same land, appears to have been before the court, and to have been directly decided. The action was ejectment, originally commenced in the State Courts of Missouri, tried by the Supreme Court of that State, and brought to the Supreme Court of the United States, by writ of error, under the 25th section of the judiciary act of 1789. Chouteau, the plaintiff, claimed title under an incomplete Spanish grant, favorably reported on by commissioners in 1832, and confirmed by act of Congress, of July 4, 1836. The defendant, to defeat the plaintiff's title, (not showing title himself,) sets up an outstanding title in the inhabitants of the village of St. Charles. This title was also founded on an inchoate Spanish grant, but which had been confirmed by act of Congress of June 13, 1812. It was contended in behalf of the plaintiff, that his title, though imperfect at the time of the treaty of cession of 1803, was protected by it, and that being originally superior to that set up by the defendant, he (the plaintiff,) was entitled to recover the land, although the defendant's confirmation had been of the earliest date. Here then was a case in which the same land had been confirmed to two several parties, and one of them desired to go back of the confirmations to inquire into the original merits of the claims under the proceedings of the Spanish authorities. The Supreme Court of Missouri decided that such inquiry could not be made, and rendered judgment against the plaintiff, and the decision was affirmed by the Supreme Court of the United States. Judge Catron, in delivering the opinion of the court, after stating that inchoate claims were not changed in their character by the treaty by which Louisiana was acquired; that the treaty imposed on the government of the United States only a political obligation to perform them; and that such obligation, sacred as it might be in any instance, could not be enforced by any action of the judicial tribunals, and referring to certain decisions of the Supreme Court of Missouri, establishing the same doctrine, concludes his opinion as follows:

"That court," (the Supreme Court of Missouri,) "in substance also held, in the cases cited, that the federal government, being unable to confirm the same land to two adverse claimants, must to some extent determine between the conflicting titles. Each claimant depends upon the justice or comity of the present government, and when the government exercises its power and confirms the land to one, it must necessarily be considered in a court of law a paramount and better title. We think this position also sound, and that it is conclusive against the validity of the plaintiff's title, and therefore order the judgment of the Supreme Court of Missouri to be affirmed."

By the act of March 3, 1851, constituting the present commission, the political power of confirming incomplete Spanish and Mexican titles is delegated to the Commissioners, and the issuing of a patent is made to depend upon such confirmation. The patent itself being the paramount evidence of title in all judicial tribunals, it would seem necessarily to follow that each of two separate parties claiming the same land under Spanish or Mexican grants is directly interested to prevent the confirmation of the claim of the other.

It is, however, insisted that the act of March 3, 1851, does not contemplate any such conclusive effect of a patent issued upon a confirmation of title by this Board, and that the act itself has made ample provision for determining the rights of conflicting claimants to the same land, independent of the acts of the Commissioners.

The clause in the 13th section, which gives to the Surveyor General certain powers in regard to boundaries in the location of confirmed claims, has been relied upon to show that the authority of deciding upon the validity of incomplete interfering grants had been confided to him. It is to be observed that the ordinary duty of the Surveyor General relates to the location and survey of lands, and does not embrace the power of deciding upon the validity of titles, and I am not able to perceive that his authority has been thus extended by this act.

The 13th section, after speaking of claims not presented to the Commissioners and of those unfavorably decided, declares that "for all claims finally confirmed by the Commissioners or by the District or Supreme Court, a patent shall issue to the claimant on his presenting to the General Land Office an authentic certificate of such confirmation, and a plat or survey of said land, duly certified and approved by the Surveyor General of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed and to furnish plats of the same." Thus far, the appropriate duties of the Commissioners to examine and decide upon titles, and of the Surveyor General to make the surveys, are undoubtedly very distinctly preserved. Then follows the clause in which is supposed to be found the new power in the Surveyor General to decide upon interfering titles. The language of the clause is as follows, viz:—"*And in the location of the said claims* the said Surveyor General shall have the same power and authority as is conferred on the Register of the Land Office and the Receiver of the public moneys of Louisiana, by the sixth section of the act 'to create the office of Surveyor of the public lands for the State of Louisiana,' approved March 3, 1831."

It is to be observed that the power conferred on the Surveyor General is confined, by the words of the act, to the *location of confirmed claims.* The language of the sixth section of the act of March 3, 1831, will, I think, be found to be fully answered, if his authority be limited to the determination of questions of boundary which may sometimes arise from different constructions of the orders of the Commissioners confirming the claims, and perhaps oftener from controversy and doubt in regard to the proper place of commencing or the mode of conducting the survey of a given tract; that is to say, to the difficulty of ascertaining its precise location, and of correctly marking its boundaries on the land. It may be added that among the embarrassments, not to say absurdities, that would be produced by supposing the Surveyor General to be vested with the unusual authority claimed for him, would be that of his being obliged to decide upon the validity of titles without evidence, and of making his decision final and conclusive upon such titles, there being no appeal allowed from his decisions, as there is from those of the Commissioners. The provision in the act of 1831, which reserves to the parties the right to contest their titles at law, would be of no avail against the decisions of the Surveyor General, because the judicial tribunals, as we have before seen, would have no authority over imperfect titles.

I conceive it, then, to be the duty of the Commissioners to determine between persons claiming adversely the same land under separate Spanish or Mexican incomplete titles, which of them has the strongest claim on the United States for confirmation; and that when such determination is made and certified to the Surveyor General, it is his duty to ascertain where the land is—to locate and survey it, and mark its boundaries, and decide such questions of boundaries as may arise in making such location; but that he has no power to go back of the decision of the Commissioners and determine the political question confided to them, whether the claim of the one or the other of two contesting parties was entitled to confirmation.

The subsequent clause of the 13th section merely authorizes the District Judge of the United States, on the application of a person who contests a claim that has been confirmed by the Commissioners, to grant an injunction against the issuing of a patent, until an opportunity is afforded the contesting party to obtain a final decision of the title. The clause confers no power of trying the question of title on the District Court, and does not even mention that court. It merely prescribes a mode for delaying the issuing of a patent, to enable the complaining party to have his title tried before some competent tribunal, without specifying or determining what that tribunal shall be.

It could only have been intended to furnish relief to a contesting party who claimed under a perfect title existing prior to the transfer of the territory to the United States, because it provides no tribunal having the political power to pass upon and confirm imperfect titles. The question of the title being one of mere private right, the parties must necessarily be left to pursue their remedies before the ordinary tribunals, having jurisdiction between them. This clause appears to have been designed to enable a party having a perfect title, recognized by the fifteenth section of the act, to maintain it unembarrassed by a patent from the United States, and for this reason, the District Judge was authorized on proper application, to stay the issuing of the patent until the title could be tried. The clause furnishes no remedy whatever for one whose title is imperfect.

I may add in confirmation of the view I have already taken of our duty in regard to interfering claims, that it appears from the instructions to us from the Commissioner of the General Land Office, to have been contemplated by that officer that the Commissioners, and also the Courts, to which the cases might be carried by review or appeal, would take into consideration and decide upon such claims.

Without dwelling longer on this branch of the subject involved in the motion, I will say that a majority of the Commissioners concur in the opinion, that a contesting claimant to a tract of land under a Spanish or Mexican grant, has an interest in the decision which the Commissioners may make in regard to it, which interest they think ought to be noticed and properly protected by the Commissioners.

Upon the question, in what manner the interest of a contesting claimant should be taken notice of, there is perhaps room for doubt. It might be done through the Law Agent, whose duty it would undoubtedly be, if he supposed any tract of land embraced in the petition of one claimant ought to be confirmed to another, to defend against it on that ground. In this manner the evidence of the contesting claimants might be brought before the Board. But this would impose on the Law Agent the delicate and unpleasant duty of deciding which claimant was best entitled to his favor, or of resisting both claims without reference to the merits of either. The question to which of two claimants a tract of land shall be confirmed, is one in which the claimants have the sole interest, it being a matter of indifference to the United States, whether a patent issue to the one or the other of them. There seems to be great propriety in allowing the parties who have the only real interest in the question, to contest it before the tribunal that is to decide it. And perceiving no serious difficulties in way of such a proceeding, we have come to the conclusion to permit and sanction it. In relation to cases of this description, we adopt a regulation as follows, viz :

"When the same tract of land, or a portion of it, is claimed adversely under Spanish or Mexican titles by two petitioners, either or both of them may file a motion in the case of the other for leave to appear and contest the right of the petitioner to a confirmation of his claim, which motion shall describe, with as much precision as practicable, the tract thus adversely claimed ; and upon the granting of such motion the petitioner will be required to notify the contesting claimant, or his counsel, as well as the Law Agent, of the time and place of taking evidence ; and such claimant or his counsel may appear and cross-examine witnesses, and may also attend to the taking of testimony against the petitioner, and be heard in the argument upon the question in relation to the interfering claim."

It will be perceived that this regulation does not propose to add any new parties to the record, so to speak, but merely to allow a contesting claimant to stand in the place of the Law Agent in defending against an interfering claim. On the final hearing before the Commissioners, the question will be, whether the claimant is entitled to a confirmation of the land claimed, including as well that portion contested as the other. The Commissioners will of course confirm the claim of the petitioner to such portion of the land as they think he is entitled to, and reject it for the residue. And either the claimant or the Law Agent will be entitled to review the case in the District Court.

The appearance of a contesting claimant in one petition may compel the petitioner in that case to appear in the petition filed by the adverse party, where the interfering claim may be also contested. Testimony may be taken in that case as in the other; but as the taking of two sets of the same evidence will be of no advantage to any one, it will, in practice, be likely to be stipulated between the counsel for both claimants, and the law agent, that the evidence taken in one case, or authentic copies of it, may be used in the other. Each case will stand upon its own testimony, and will go into the District Court, if appealed, independent of the other, there to be conducted and disposed of as the Court shall think fit.

By this course of procedure it appears to a majority of the Commissioners that the rights of all the parties will be best preserved; and we do not apprehend any serious embarrassment, either to the parties, the counsel, or the Commissioners, in carrying it into effect.

We make at present no order upon the motion which has been argued, other than to say that on its being amended to conform to the regulation now adopted, it will be granted.

Commissioner WILSON concurred with Commissioner HALL. Commissioner THORNTON delivered a dissenting opinion.

DISSENT OF COMMISSIONER, H. J. THORNTON, FROM THE OPINION OF THE BOARD, ON THE MOTION ENTERED BY THE COUNSEL OF MARIA LOUISA GREER AND MANUELA COPPINGER, CONTESTANT IN NO. 2:

The motion in this case is in effect to permit the applicant to become a party in a cause now pending before us, between the United States and the heirs of Louis Arguello, with the view of contesting the validity of the title of the claimants in that case, and to assert a right to the same land in himself. The question raised by the motion is one of considerable moment, as it may affect, if decided in favor of the mover, most materially, the progress and dispatch of the business of this Board. It may not be amiss, before entering upon the merits of the question, to bestow a moment's reflection upon the subject matter of the Act of Congress which we are called upon to construe. That subject matter is the Private Land Claims in the State of California, and the purpose of the law, as declared in its first section, is to *ascertain* and *settle* these claims.

The Government of the United States, by treaty of purchase, or, as is sometimes said, by conquest, but in which mode is wholly immaterial, as far as regards the determination of the question now submitted, became the sovereign of the country, and thereby the owner, as such, of all the territory which, at the date of the acquisition, was the *eminent* domain of the *Mexican Government*, as contra-distinguished from the private property of the *Mexican citizens*. The sovereign that succeeds another, no matter in what manner, according to the well-settled doctrine of the Law of Nations. acquires no right to any property, except what belonged to the displaced sovereign; or, in other words, if there were no treaty, or, being one, it were wholly silent on the subject of the private property of the citizens of the former government, their right of private property, of whatsoever nature or character, would be equally sacred and inviolable. The Government of the United States having become, to the extent above stated, the owner of the domain of California, in accordance with her accustomed usage, and the settled policy of the nation, desired to appropriate and dispose of the lands thus acquired in such manner as to convert them to the use of her citizens, by a sale thereof, on such terms as the people, through their representatives, may devise. In thus appropriating to the use and enjoyment of her citizens the territory acquired by their comon valor, or treasure, care must be taken not to trespass upon the private rights of those who had already, according to the course of proceeding of their former government, become the proprietors of any part of the *Territory*. If it had all been disposed of by the former sovereign to her citizens, everything that the United States would have acquired was the political sovereignty of the country, and no portion of the soil itself, which she could use for national purposes, or grant to her citizens. There was, for example, on the annexation of Texas, no necessity for any laws devising means to *ascertain* and *settle the extent of private land claims ;* because the goverment had no other or further interest in that matter than as she may derive benefit, in a national point of view, from the quiet and peaceable condition of her citizens, according to the maxim, "Interest Reipublica, ut set finis litium." But here in California, as in Louisiana and Florida, the land of the State is, to an *unascertained* and *indefinite* extent, the property in part of the Federal Government, and in part the private property of individuals. Hence, in view of the great policy above adverted to, of reducing the public domain to private and individual ownership, it has been deemed wise and proper to hasten that end by the creation of provisional tribunals, as well as by stimulating an appeal to the ordinary judicatures established by the constitution for the speedy ascertainment and settlement of the question of the *extent* of the private ownership of the territory acquired under the former governments of the country. But for the interest which the United States has, or believes she has, to some considerable portion of the lands of California, I suppose that she would not constitute any peculiar or special tribunals to decide upon the mere private rights of individual proprietors, but would content herself with the forums, Federal and State, which are otherwise provided with powers and jurisdiction ample enough to decide the contested claims of private persons between themselves, An obligation rests upon every body politic to provide tribunals for the adjustment of private rights, else the benefit of government would be but partially enjoyed, or, in other words, one of its chief ends be neglected. But there is no obligation upon government to do this, in regard to persons claiming property under one source of title more than another. So far as any obligation is imposed, by treaty stipulation, on the acquision of foreign territory, to do any act, either legislative or judicial in its nature, concerning the private property of the former inhabitants, of course such duty ought to be most punctiliously performed. In the absence of any such stipulation by treaty, there is not perceived to be any peculiar duty to provide any extraordinary means for the settlement of questions of mere *meum* et *tuum* between private owners of one class more than any other class. To be sure, if there be any right of private property derived through the former governments, which cannot be protected and maintained by an appeal to the judicial tribunals, Federal or State, either of law or equity, then the Federal Government, we are bound to presume, should not be invoked in vain in behalf of such a right.

We cannot, however, fail to observe that, in the Act of the 3d of March, 1851, constituting this Board, among other things, no distinction is noticed between the different classes of claimants as to the perfect or imperfect nature of their titles. Each and every person claiming lands in California by virtue of *any right* or *title* derived from the Spanish or Mexican Government, is required to present the same to the said commissioners, &c.

It is clear to my mind that the legislative intention was that perfect titles, as well as incohate titles: those perfected into complete right as well as those of an equitable nature, should all be presented: and the bar of limitation, working a forfeiture to the government, in case of a failure thus to present, within the prescribed time, is expressed in terms as comprehensive as the *requirement of presentation.* I have thought it best to premise thus much of the general nature and purposes of this act, which I considered as bearing, in some measure, upon the particular matter presented by the motion. The consideration of this motion makes it necessary to come to some definite understanding as to *the character* and *extent* of *the functions* to be performed by this Board. It does not, in the sense of the Constitution of the United States, compose a part of the Federal Judiciary. It wants many essential features of a tribunal of that character. Its nature is peculiar and special, its organization provisional, and its jurisdiction limited to a single and particularly defined subject. So far, however, as it can go, the principles governing its decisions are the same which apply to the same cases, if true, in any other forum. As to the extent of its functions, it appears to me to have been created as an initiatory tribunal, in which to ascertain the facts how much and what identical land, in the State of California, is public domain? That object is one of high public duty to the citizens of the United States. The land is destined for the use of the people, and that destination cannot be accomplished in an equal and just manner, without ascertaining, in some mode, what is the public land so to be appropriated. At the same time, that the Government has undertaken, in conformity with her wonted usage, to accelerate the disposition and equal enjoyment of the *public domain*, by creating a tribunal to *ascertain it*, which was her first great aim and duty, she has, in the same act of legislation, provided a means of settling, to some *extent*, *at least*, the private contests of individuals about the same matter. How far the means provided by the act are wise, convenient, well adapted to the end proposed, and in accordance with the constitution, all of which topics have been mooted in the argument of the question, we are not now called upon to decide; but simply to say whether the course of proceeding proposed by the motion is one competent to this Board to adopt. The act clearly is not silent on the subject of the conflicts between different claimants, but expressly provides, in a certain degree, if not fully, for their adjudication. The act expressly refers to *contests* between individual claimants, in which the *United States* is not a party, and expressly *provides one tribunal*, and recognizes another, in which they may be conducted. The tribunals thus designated are *others* than this *Board*, and the time of *their* action is to be subsequent to the performance of *its* prescribed functions. This contestation between claimants, in which the United States is to be no party, and which the act provides for, in the 13th section, is, *first*, where claims which have been confirmed by this Board, lap over each other, to use the language of surveyors; and this contest arises on the ground, or at the location of the land by the Surveyor General, preparatory to obtaining a patent, *after the action of this Board*, and is to be decided by the Surveyor General. And, *secondly*, where the title is contested, so that one of the contesting parties may obtain a decree or judgment for the whole land, to the exclusion of the other in toto. Thus it appears that the act contemplates and provides, most explicitly, for these cases of conflict and contest. In the absence of any provision in the act touching the settlement of mere matters of private right between parties *other* than the *United States*, such as has been made in this act, I would consider that the doctrine of strict construction, applicable to the jurisdiction of all *inferior* and *special* tribunals, would limit the action of this Board to the trial of the question of the validity of title between the *party claimant* and the *United States*. Neither as to subject matter of controversy, nor as to persons,—can a tribunal of special and limited jurisdiction go beyond its prescribed limits? In this act not only the subject matter, and the persons constituting the parties before this Board, viz: the claimant and the United States, are distinctly declared, but the tribunals before whom the conflicts and contests between other persons are to be conducted are pointed out, and the mode of proceeding defined, which, to my mind, of itself, would be conclusive against the rule asked for in this behalf. The expression of the one I would consider to be exclusive of the other.

But the proposition has been urged, with no little earnestness and ingenuity, that it is not only competent to this Board to allow the amalgamation of claims, as proposed in the rule applied for, but that the only proper and just course to be pursued is to entertain the contest between different claimants, going along, pari passu, with the trial between them and the United States. I cannot accord to the arguments by which these propositions are attempted to be sustained, sufficient force to remove my objections to the course proposed. It is true that, by pursuing what I understand to be the intention of the Legislature, some of the consequences which are objected will ensue. It is true, for instance, that a decree may be pronounced in favor of a claim by this Board, when, in truth, there is a better title to the land claimed than that of such successful claimant; by which means it may happen that a shade may be thrown over the supposed better title, and the interest of the owner of it be thus injuriously affected. This is what may, and does often occur, and no system of jurisprudence can be so far perfected as not to be liable to such objection. It is what the law terms "damnum absque injuria." A recovery of property may be had by A from B, and yet A's title may not prevail against that of C, who may sue and recover it from A. It may be said that a shade was cast upon C's title, because a judicial tribunal had decreed it to A. But this is an injury that the law cannot consider. Although C could not interfere in the litigation between A and B, yet his legal rights are not affected by the judgment, and he may, by his own suit, recover his estate. So, under the operation of this act, in which it is expressly enacted, in the 15th section, that a confirmation, nay, even a patent under it, shall not prejudice the rights of third persons, but only be conclusive between the United States and said claimants.

The objection is also urged that, by refusing the rule, the fact may occur that there may be two or more confirmations, or decrees, for the same land. This may take place, but it cannot be urged in this argument, because such a consequence is expressly recognized in the act itself, and provided for. It does not result in anything more than the estoppel of the United States, leaving the question still open for contest which of them is entitled, as against the others. This result of more than decree against the Government, and in favor of different claimants, is recognized explicitly in the 13th section of the act, when speaking of the location, by the Surveyor General, of the confirmed claims, it is declared that the Surveyor General shall have the same power and authority as are conferred on the Register of the Land Office, and Receiver of the public moneys of Louisiana, by the 6th section of the act to create the office of Surveyor of the Public Lands for the State of Louisiana, approved 3d March, 1821. By referring to that 6th section, it will be seen that the power and authority conferred on the Register and Receiver, which are the very same transferred to the Surveyor General by this act, are in relation to all such *confirmed claims* as may *conflict*, or in *any manner interfere* with each other.

In such cases they were to decide between the parties. and in such the Surveyor General of California can decide under this act.

Even patents of the same land are often granted to different persons. In 2d Peters' Reports' 235, in the case of Patterson's lessees and the Supreme Court of the United States, say, "It is every day's practice to make grants for lands which have, in part, been granted to others."

The force and effect of such confirmations, or patents, are only to estop the United States, and not to affect the rights of other persons.

Her grant, or confirmation, has only the effect of a quit claim deed —from the United States.

The argument in favor of this motion, derived from the supposed influence and effect of that portion of this act (the 11th section), which enacts that the Commissioners and the District and Supreme Courts, in deciding on the validity of any claim brought before them, under the provisions of this act, shall be governed by the principles of equity, would just as well apply to sustain a motion to regulate the proceedings of this Board by the laws, usages and customs of Spain or Mexico, for they are equally required to govern us as are the principles of equity. It seems to me very apparent that the principles of equity, as the other enumerated grounds of adjudication, are only to govern the decision on the validity of the claims, and have no bearing whatever upon the mode of instituting and conducting the proceedings.

If, however, I were at liberty to extend the meaning of those terms beyond their obvious import, and apply them to the mode of proceeding, my conclusion would be that they would not warrant the adoption of the proposed rule. The principles of equity will not authorize a bill which is multifarious, and embraces distinct matters, affecting distinct parties, who have no common interest in the distinct matters—2d Mason's U. S. C. C. Repts., 181. Now let us see how that principle of equity would quadrate with the proposed rule. To do this, we must follow out the matter into practice. A files a statement claiming to own one hundred acres of land, by virtue of a Spanish grant, deraigning his title through many intermediate links in a chain from the original grantee, who, he states, conveyed the said one hundred acres of land to B, that B conveyed to C, that C conveyed to D, that D, by his last will and testament, devised the same to him: thus completing his statement of title to the said land. C comes, under the rule, and files his statement of title to the same hundred acres of land, stating the original Spanish grant as A had done, which he insists upon as against the United States.

He sets out, then, his deraignment of title from the grantee, as A had done. He then proceeds to disclose his grounds of contest with A by averring that he is the *heir* at law of D, from whom A claims *as devisee;* that D's will, through which A claims, was void, for some one or more of the grounds of invalidity of will, under the Spanish law, and so he is entitled to the land, as heir, and not A, as devisee.

C then comes before the Board, and makes his statement of title, as A and B have done, down from the original grantee to himself, but then contests the claim of them both, by averring that the pretended conveyance from him to D, the supposed testator, was void, for some one of the various grounds on which, by the Spanish or Mexican law, that conveyance may be assailed. This contestation may be extended "ad infinitum," but, in the limited panorama which I have presented, there is a busy contest: first of all, the claimants against the United States; then of two of them, the supposed heir and devisee, against each other: then of the claimant C, with the two last, as to the sufficiency of his conveyance to D, the supposed testator. When would this Babel of conflicting private rights ever be composed? Not only the questions of law and fact, touching the original Spanish or Mexican title, about which alone the United States, one of the parties in the case, is materially concerned, must be solved, but all the nice and intricate points in the municipal law of Spain and Mexico, concerning conveyances and divises, must be examined into and decided. Tantas lites, quis componere? The trouble, and inconvenience, and confusion of this matter would be great enough to startle a man of ordinary nerve and legal attainments, if all these claimants would make their formidable entrance, at once, into our presence; but suppose it should suit their convenience to come forward only in time to escape the statutory bar, or a final decree of this Board, on the claim first presented, then there must be an awful pause in the proceeding. All those depositions, whose taking has cost so much time, trouble and expense, must be put aside and taken over again, if needed; for certain it is that those *principles of equity*, by which we must be governed, will not allow them to be read against one who was no party at their taking, and not bound to have been.

It has been urged, as a reason for adopting the rule, that, unless this contest is permitted between the claimants before this Board, the interest of the United States might be injured; because, if a confirmation and patent afterwards should be granted to the first claimant, there may be an older and better Spanish or Mexican grant, which may never be presented by the grantee or his assignees, and thus the land become the property of the United States, by means of the forfeiture created in such case by the statute.

I do not perceive, perhaps, the entire force of this view, but, as it strikes my mind, it is too remote an interest to merit consideration in this motion. It is founded on two suppositions: *first*, that there is a better title, and, *secondly*, that it never will be asserted, in an available manner, by those owning it.

In conclusion, I will only say that I do not think the rule ought to be made, as asked for.

I DO HEREBY CERTIFY, that the foregoing is a true copy of the original document read in Court, and filed in office 9th of February, 1852.

JOHN FISHER, SEC'Y.

LIST OF LAND TITLES.

No. 1. Las Mariposas, *in the valley of the San Joaquin.*—Ten square leagues; date of claim, February 29th, 1844; now claimed by J. C. Fremont; originally, by Juan Bautista Alvarado; Attorneys, Jones, Tompkins, Strode & Lockwood.

2. Rancho de las Pulgas, *on the Bay of San Francisco.*—Date of claim, December 10th, 1835; now claimed by Maria de la Soledad Ortega de Arguello; originally by Luis Arguello; Attorneys, Jones & Strode.

3. Suisun, *Solano Co.*—Four square leagues; date of claim, January 28th, 1842; now claimed by Archibald A. Ritchie; originally by Francisco Solano; Attorneys, Halleck, Peachy & Billings.

4. Rancho de San Antonio, *Contra Costa Co.* Date of claim, August 16, 1820; now claimed by Vicente Peralta and others; originally by Luis Peralta; Attorneys, Irving & Rose.

5. Mission of Dolores, *near San Francisco.*—Two hundred varas; date of claim, July 20th, 1843; now claimed by Thomas Jefferson Smith; originally by Domingo Feliz; Attorneys, Jones, Tompkins & Strode.

6. New Helvetia, *Valley of Sacramento.*—Eleven square leagues; date of claim, June 18th, 1841; now claimed by Roland Gelston; originally by Augustus Sutter; L. D. Brown, Attorney.

7. Las Ubas, *Santa Clara Co.*—Three Spanish leagues; date of claim, June 14, 1842; now claimed by Bernard Murphy: originally by Lorenzo Pinedo; Attorneys, Jones, Tompkins & Strode.

8. Potrero de Santa Clara, *Santa Clara Co.*—One square league; date of claim, February 29th, 1844; now claimed by Robert F. Stockton; originally by James Alexander Forbes; Attorneys, Halleck, Peachy & Billings.

9. Nipoma, *Santa Barbara Co.*—Date of claim, April 6th, 1837; now claimed by Wm. G. Dana; originally by Guillermo Dana; Attorneys, Halleck, Peachy & Billings.

10. Las Mariposas.—Eleven square leagues; date of claim, September 13, 1843; now claimed by Emilius Voss; originally by Manuel Castañares; Attorney, R. Rose.

11. Island of Yerba Buena, *Bay of San Francisco.*—Date of claim, November 18, 1838; now claimed by Joel S. Polack and others; originally by Juan José Castro; Attorney, Roderick N. Morrison.

12 GUENOC, *Sonoma Co.*—Six square leagues; date of claim, August 8, 1845; now claimed by Archibald A. Ritchie; originally by George Rock; Attorneys, Halleck. Peachy & Billings.

13. SAN JULIAN, *Santa Barbara Co.*—Six square leagues; date of claim, August 8, 1845; now claimed by José de la Guerra y Noriega; originally by same; Attorneys, Halleck, Peachy & Billings.

14. ACALANES, *Contra Costra.*—One square league; date of claim, August 1, 1834; now claimed by Elam Brown; originally by Candelario Valencia; Attorneys, Jones, Tompkins & Strode.

15. LOMPOC, *Santa Barbara.*—Date of claim, April 15, 1837; now claimed by Joaquin and José A. Carrillo; originally by same; Attorneys, Halleck, Peachy & Billings.

16. SONOMA.—Eight square leagues; date of claim, September 28, 1841; now claimed by Josefa Carillo Fitch and others; originally by Henry D. Fitch; Attorneys, Halleck, Peachy & Billings.

17. MISSION OF DOLORES.—One square league; date of claim, December 23, 1845; now claimed by José de Jesus Noé; originally by same; Attorneys, Clarke, Taylor & Beckh.

18. ISLAND OF LOS ANGELES, *Bay of San Francisco.*—Date of claim, June 11, 1839; now claimed by Antonio M^a Osio; originally by same; Attorney, John Parrott.

19. CAÑADA DE POGOLOME, *Marin Co.*—Two square leagues; date of claim, February 12, 1844; now claimed by Antonia Cazares; originally by same; Attorneys, Halleck, Peachy & Billings.

20. RANCHO DE LAS AROMITAS Y AGUA CALIENTE, *Monterey Co.*—Three square leagues: date of claim, October 12, 1835; now claimed by Juan Miguel Anzar; originally by Juan Anzar; Attorneys, Jones, Tompkins & Strode.

21. CAÑADA DE RAIMUNDO.—Two and one-half leagues long and three-fourth leagues in width; date of claim, August 3, 1840; now claimed by Maria Luisa Greer and others; originally by John Coppinger; Attorneys, Clarke, Taylor & Beckh.

22. SANTA CLARA, SANTA ANA AND QUIEN SABE.—Ten square leagues, and six square leagues; date of claim, April 19th, 1839; now claimed by Juan Miguel Anzar; originally by Manuel Larios and Juan Anzar; Attorneys, Jones, Tompkins & Strode.

23. BODEGA RANCHO, *Bodega.*—Eight square leagues; date of claim, September 14, 1844; now claimed by Stephen Smith; originally by same; Attorney, Stephen Smith.

24. BULCHER RANCHO, *Sonoma Co.*—Six square leagues; date of claim, October 14, 1844; now claimed by Stephen Smith; originally by Juan Vioget; Attorney, Stephen Smith.

25. SAN FRANCISCO DE LAS LLAGAS, *Santa Clara Co.*—Six square leagues; date of claim, February 3, 1834; now claimed by Daniel and Bernard Murphy; originally by Carlos Castro; Attorneys, Jones, Tompkins & Strode.

26. Las Tolenas, *Solano Co.*—Three square leagues; date of claim, March 10, 1840; now claimed by Dolores Riesgo Armijo and others; originally by Francisco Armijo; Attorneys, Clarke, Taylor & Beckh.

27. San Miguelito de Trinedad.—Five square leagues; date of claim, July 24, 1841; now claimed by José Rafael Gonzales; originally by same; Attorneys, Clarke. Taylor & Beckh.

28. Buenaventura, *Valley of Sacramento.*—Six square leagues; date of claim, December 4, 1844; now claimed by Pearson B. Reading; originally by same; Attorneys, Crosby & Rose.

29. Mission of Dolores *Curtiduria del Establecimiento de Dolores.*—Two hundred varas square; date of claim, May 2, 1846; now claimed by Thomas Dorland; originally by Teribio Fanfaran; Attorneys, Brown, Hanna & Tracy.

30. Rincon de las Salinas y Potrero Viejo, *San Francisco Co.*—One square league; date of claim, October 10, 1839; now claimed by Carmen Sibrian de Bernal y José Cornelio Bernal; originally by José C. Bernal; Attorneys, Halleck, Peachy & Billings.

31. Guadalazca.—Date of claim, May 6, 1836; now claimed by Isabel Yorba; originally by same; Attorneys, same as above.

32. Guilicos, *Frontiers north of San Francisco.*—Date of claim, November 20, 1837; now claimed by Juan Wilson; originally by same; Attorney, Frederick Griffin.

33. Settlement of Dolores.—Two hundred varas square; date of claim, July 18, 1845; present claimants, Eustaguio y José Ramon Valencia, original, same; Attorney, W. Schleiden.

34. Settlement of Dolores.—Fifty varas square; date of claim, November 18, 1840; present claimant, Candelanio Valencia; original same. No. 2, same locality, one hundred varas square; date of claim, May 18, 1841; claimant, same as above; Attorney, W. Schleiden.

35. Orestimbo, *near San Joaquin River.*—Six square leagues; date of claim, February 21, 1844; present claimant, Sebastian Nuñez; original, same; Attorneys, Clarke, Taylor & Beckh.

36. Cañada de la Corte Madera.—Two square leagues, more or less; date of claim, May 1, 1844; present claimant, Maximo Martinez; original, same; Attorneys, same as above.

37. San Luis Gonzaga, *Mariposa Co.*—Date of claim, December 3, 1843; now claimed by Juan Perez Pacheco; originally by Francisco Rivera; Attorneys, same as above.

38. San Jose de Gracia *alias* Simi, *Santa Barbara Co.*—Date of claim, 1795; now claimed by José de la Guerra y Noriega; originally by Patricio Javier y Miguel Pico; Attorneys, Halleck, Peachy & Billings.

39. Mission of San Luis Obispo.—One thousand varas square; date of claim, September 18, 1842; present claimant, Victor Linares; Attorneys, Halleck, Peachy & Billings.

40. Calloyome, *Sonoma Co.*—Three square leagues; date of claim, June 17, 1845; now claimed by Archibald A. Ritchie and Paul S. Forbes; originally by Robert T. Ridley; Attorneys, Halleck, Peachy & Billings.

41. Suey, *San Luis Obispo Co.*—Five square leagues; date of claim, April 6, 1837; now claimed by Ramona Carrillo de Wilson; originally by Ramona Carrillo; Attorneys, Halleck, Peachy & Billings.

42. Arroyo de la Laguna, *Branciforte Co.*—One square league; date of claim, June 12, 1840; now claimed by James and Squire Williams; originally by Gil Sanchez; Attorneys, Crosby & Rose.

43. Muniz, *Mendocino Co.*—Four square leagues; date of claim, December 4, 1845; present claimant, Manuel Torres; original, same; Attorneys, Clarke, Taylor & Beckh.

44. Laguna de San Antonio, *Marin Co.*—Six square leagues; date of claim, November 5, 1845; present claimant, Bartolome Bojorguez; original, same; Attorneys, Clarke, Taylor & Beckh.

45. Arroya de San Antonio, *Marin Co.*—Three square leagues; date of claim, October 8, 1844; now claimed by Thomas B. Valentine; originally by Juan Miranda; Attorneys, Jones, Tompkins & Strode.

46. Mission of San Francisco.—Two hundred varas; date of claim August 20, 1843; now claimed by Thomas Jefferson Smith; originally by Domingo Feliz; Attorneys, same as above.

47. San Justo, *Monterey Co.*—Four square leagues; date of claim, April 15, 1839; now claimed by Francisco Perez Pacheco; originally by José Castro; Attorneys, Clarke, Taylor & Beckh.

48. Santa Maneula, *San Luis Obispo Co.*—Date of claim, April 6, 1837; present claimant, Francisco Branch; original, same; Attorneys, Halleck, Peachy & Billings.

49. Sespe, *Santa Barbara Co.*—Six square leagues; date of claim, November 9, 1833; present claimant, Carlos Antonio Carrillo; original, same; Attorneys, Halleck, Peachy & Billings.

50. Huerta de Remualdo, *San Luis Obispo Co.*—One-tenth square league; date of claim, July 10, 1846; now claimed by John Wilson; originally by Remualdo; Attorneys, Halleck, Peachy & Billings.

51. *In the Mission of San Buenaventura.*—Four hundred varas; date of claim, March 24, 1846; present claimant, Fernando Tico; original, same; Attorneys, Halleck, Peachy & Billings.

52. La Polka, *a part of the Rancho de San Ysidore, Santa Clara Co.*—One square league; date of claim, July 19, 1844; present claimant, Bernard Murphy; original, Ysabel Ortega; Attorneys, Jones, Tompkins & Strode.

53. *Near the top of the Auras, San Pedro and Buribusi.*—One

square league; date of claim, May 1, 1844; present claimant, Domingo Feliz; original, same; Attorneys, Brown, Hanna & Tracy.

54. Encinal and Buena Esperanza, *Monterey Co.*—Two square leagues originally, and one square league additional; date of claims, November 29, 1834, and April 12, 1839; present claimant, David Spence; original, same; Attorney, David Spence.

55. Quien Sabe, *San Joaquin Co.*—Six square leagues; date of claim, April 15, 1836; present claimant, Francisco Castillo Negrete; original, same; Attorney, John Parrot.

56. San Joaquin, or Rosa Morada, *Santa Clara Co.*—Two square leagues; date of claim, April 1, 1836; now claimed by Cruz Cervantes; originally by same; Attorneys, Jones, Tompkins & Strode.

57. Los Putos, *Solano Co.*—Ten square leagues; date of claim, January 27, 1843; present claimant, Juan Manuel Vaca and Juan Felipe Peña; original, same; Attorneys, Jones, Tompkins & Strode.

58. Seno de Mallocones, and plain of Aguas Calientes. *Napa Co.*—Four square leagues; date of claim, October 14, 1843; present claimant, José de los Santos Barreyesa; original, same; Attorney, F. P. Tracy.

59. Moristut, *Napa Co.*—Two square leagues; date of claim, October 14, 1843; present claimant, Lovett P. Rockwell and Thomas P. Knight; original, José de los Santos Barreyesa; Attorney, J. D. Bristol.

60. Santa Rita, *Contra Costa Co.*—Date of claim, April 10, 1839; present claimant, José Dolores Pacheco; original, same; Attorneys, Jones, Tompkins & Strode.

61. San Geronimo, *San Luis Obispo Co.*—Two square leagues; date of claim, October 24, 1842; present claimant, Rafael Villavicencio; original, same; Attorneys, same as above.

62. Turistac, *Santa Clara Co.*—One square league; date of claim, October 22. 1835; present claimant, Antonio and Faustino German; original, same; Attorneys, same as above.

63. Ausaymas, *Santa Clara and Tuolumne Cos.*—Two square leagues and two additional; dates of claims, November 26, 1833, and February 6, 1836; present claimant, Francisco Perez Pacheco; original, same; Attorneys, Clarke, Taylor & Beckh.

64. San Felipe, *Santa Clara and Tuolumne Cos.*—Three square leagues; date of claim, April 1, 1836; present claimant, Francisco Perez Pacheco; original, same; Attorneys, Clarke, Taylor & Beckh.

65. Bolsa de San Felipe, *Monterey Co.*—Two square leagues; date of claim, October 14, 1840; claimants, present and original, Francisco Perez Pacheco; Attorneys, Clarke, Taylor & Beckh.

66. Guadalupe, *San Luis Obispo Co.*—Date of claim, March 21, 1840; claimants present and original, Diego Olivera and Teodoro Arellanes; Attorneys, Halleck, Peachy & Billings.

67. Cuyama, *Santa Barbara Co.*—Five square leagues; date of claim, April 24, 1843; now claimed by Maria Antonio de la Guerra y Lataillarde; originally by José Maria Rajo; Attorneys, Halleck, Peachy & Billings.

68. Novato, *Marin Co.*—Two square leagues; date of claim, April 16, 1839; now claimed by assignees of Bezer Simmons; originally, by Fernando Feliz; Attorneys, Halleck, Peachy & Billings.

69. Roblar de La Miseria, *Sonoma Co.*—Four square leagues; date of claim, November 21, 1845; now claimed by Daniel Wright and others; originally by Juan Nepomuceno Padilla; Attorneys, Weller, Sutherland & Carr.

70. Laguna de Santos Calle, *Yolo Co.*—Eleven square leagues; date of claim, December 29, 1845; now claimed by Edmond L. Brown; originally by Victor Prudon and Marcos Baca; Attorney, Tod Robinson.

71. Olompali, *Marin Co.*—Two square leagues; date of claim, October 22, 1843; present claimant, Camilo Ynitia; original, same; Attorneys, Irving & Rose.

72. San Pedro, Santa Margarita and Las Gallinas, *Marin Co.*—Five square leagues; date of claim, February 14, 1844; present and original claimant, Timoteo Murphy; Attorneys, Irving, Fair & Rose.

73. Rincon del Alisal, *Santa Clara Co.*—Six hundred varas; date of claim, December 28, 1844; present claimants, Julian and Fernando, sons of Santos, Neophites of Santa Clara Mission; original claimants, Santos and his sons Julian and Fernando; Attorney, J. F. Hill.

74. City of San Francisco.—Two hundred by two hundred varas; date of claim, May 21, 1839; present and original claimants, Jacob Luis Leese and Salvador Vallejo; Attorney, S. L. Burritt.

75. San Juan Bautista.—*Santa Clara Co.*—Two square leagues; date of claim, March 30, 1844; present and original claimant, Augustine Narvaez; Attorney, C. E. Mount.

76. Monte del Diablo.—Four square leagues; date of claim, July 26, 1834; present and original claimant, Salvio Pacheco; Attorney, Salvio Pacheco.

77. Las Pocitas.—Two square leagues: date of claim, April 10, 1839; original and present claimants, José Noriega and Roberto Livermot; Attorneys, Jones, Tompkins & Strode.

78. Agua Caliente.—Two square leagues; date of claim, April 4, 1839; present and original claimant, Fulgencio Higuera; Attorneys, Jones, Tompnins & Strode.

79. Cañada de los Baqueros.—Date of claim, February 29, 1841; now claimed by Robert Livermore; originally by Francisco Alviso and others; Attorneys, Jones, Tompkins & Strode.

80. Tinicasia, *near the Mission of San Rafael.*—One square

league; date of claim, 1841; now claimed by Timothy Murphy in behalf of San Rafael Indians; originally by San Rafael Indians; Attorneys, Irving & Rose.

81. MISSION OF DOLORES, *near San Francisco.* Three square leagues, with exceptions; date of claim, Feb. 10th, 1846; present claimant, James R. Bolton; original, José Prudencio Santillan. Attorneys, Dwinelle, Chetwood, Edwards & Rose.

82. ARROYO DE LA LAMEDA.—Four square leagues; date of claim, August 8th, 1842; present claimant, José de Jesus Vallejo; original, same. Attorneys, Clark, Taylor & Beckh.

83. IN SANTA CLARA, five thousand varas S. W. of the Mission of San José, one thousand varas; date of claim, Dec. 30th, 1840; claimant, same as above. Attorneys, Clark, Taylor & Beckh.

84. CAÑADA DE HERRERA, *Marin Co.*—One and a half square leagues; date of claim August 10th, 1839; original and present claimant, Domingo Saens. Attorneys, Clark, Taylor & Beckh.

85. BOLSA DE SAN CAYETANO, *Monterey Co.* Two square leagues, date of claim, October 28th, 1824, confirmed October 13th, 1834; original claimant, Ignacio Vallejo; present, José de Jesus Vallejo. Attorneys, Clark, Taylor & Beckh.

86. CAÑADA DE JONIVE, *Sonomo Co.*—Two and a half square leagues; date of claim, February 5, 1845; present claimant, Jasper O. Farrell; original, James Black; Attorneys, Halleck, Peachy & Billings.

87. HUERHUERO, *San Luis Obispo Co.*—One square league; date of claim, May 9, 1842; present claimant, Francisco Branch; original, Mariano Borillo; Attorneys, Halleck, Peachy & Billings.

88. TEQUEPIS, *Santa Barbara Co.*—Two square leagues; date of claim, May 24, 1845; present claimant, Antonio Maria Villa; original, Joaquin Villa; Attorneys, Halleck, Peachy & Billings.

89. CARMEL, *on the borders of the River Sacramento.*—Ten square leagues; date of claim, May 4, 1846; present claimant, James G. Morehead; original, William Knight; Attorneys, Jones, Tompkins & Strode.

90. Part of the RANCHO DE LA PASTORIA, *Santa Clara Co.*—Three thousand two huudred and seven and a half acres; date of claim, January 15, 1842; present claimant, Martin Murphy; original, Francisco Estrada; Attorneys, Jones, Tompkins & Strode.

91. JOHNSON'S RANCHO, *Bear River.*—Five square leagues; date of claim, 1844; present claimant, William Johnson; original, Pablo Gutierres; Attorney, R. Rose.

92. NEW HELVETIA.—Eleven square leagues and a surplus of twenty two square leagues; date of claim, June 18, 1841; present and original claimant, John A. Sutter; Chetwood, Edwards & Rose.

93. YERBA BUENA OR SOCAYRE, *Commons of San Jose.*—Date of claim, November 25, 1833; present claimant, Antonio Chaboya; original, same; Attorneys, Jones, Tompkins & Strode.

94. SAN FRANCISCO DE ASIS OR DOLORES, *San Francisco Co.*—Six hundred varas square; date of claim, May 6, 1846; present claimant, Abel Stearns; original, José Andrade; Attorneys, Jones, Tompkins & Strode.

95. RANCHO DEL OJO DE AGUA DE LA COCHI, *Santa Clara Co.*—Two square leagues; date of claim, August 4, 1835; present claimant, Bernard Murphy; original, Juan Maria Hernandez; Attorneys, Jones. Tompkins & Strode.

96. SOBRANTE, *Contra Costa.*—Eleven square leagues; date of claim, April 23, 1841; present claimants, Juan José and Victor Castro; original, same; Attorney, William H. Carpentier.

97. BURIBURI.—Date of claim, September 18, 1835; present claimants, José de la Cruz Sanchez and others; original, José Sanchez; Attorneys, Clarke, Taylor & Beckh.

98. CHOLAME, *San Luis Obispo Co.*—Six square leagues; date of claim, February 7, 1844; present claimant, Ellen E. White; original, Mauricio Gonzales; Attorney, John Willson.

99. SAN JUSTO EL VIEJO Y SAN BARNABE, *Monterey Co.*—Six square leagues; date of claim, February 18, 1836; present claimants, Ellen E. White and John Carney; original, José Rafael Gonzales; Attorney, John Wilson.

100. At the MISSION OF DOLORES, *San Francisco.*—A lot fifty by one hundred feet; present claimant, Francisco Raffino; Attorney, Francisco Raffino.

101. POTRERO DE SAN FRANCISCO, *San Francisco Co.*—One-half square league; date of claim, April 30, 1844; present claimant, Josefa de Haro and others; original, Ramon y Francisco de Haro; Attorneys, Clarke, Taylor & Beckh.

102. LAGUNA DE LA MERCED.—One league long by one-half league wide; date of claim, September 27, 1835; present claimants, Josefa de Haro and others; original, Jose Antonio Galindo; Attorneys, Clarke, Taylor & Beckh.

103. In the *County of Mendocino.*—Ten leagues by two; date of claim, October 30, 1844; present claimant, Guillermo Antonio Richardson; original, same; Attorneys, Clarke, Taylor & Beckh.

104. SAUCELITO, *Marin Co.*—Three square leagues; date of claim, February 11th, 1838; claimant, same as above; Attorneys, Clarke, Taylor & Beckh.

105. Lot in SAN RAFAEL, *Marin Co.*—One hnndred by thirty varas; date of claim, December 16, 1844; original and present claimant, Timoteo Murphy; Attorney, R. Rose.

106. EL RIO DE LOS MOLINOS, *Butte Co.*—Five square leagues; date of claim, December 20, 1844; present and original claimant, Alberto G. Toomes; Attorney, P. Ord.

107. SAUCOS, *Colusi Co.*—Five square leagues; date of claim, December 20, 1844; present and original claimant, Roberto H. Thomes; Attorney, P. Ord.

108. ULISTAC, *Santa Clara Co.*—One-half square league; date of claim, May 19, 1845; present claimant, Jacob D. Hoppe; original, Marcelo, Pio y Cristoval, emancipated Indians of the Mission Santa Clara; Attorney, John Wilson.

109. *In Butte Co.*—Four square leagues; date of claim, June 12, 1816; present claimants, Dionisio Z. Fernandez and others; Dionicio y Macsimo Fernandez; Attorney, P. Ord.

110. ESTABLISHMENT OF THE MISSION OF SAN JOSE, *Santa Clara Co.*—Thirty thousand acres, more or less; date of claim, May 5, 1846; present claimants, Andres Pico and others; original, Andres Pico y Juan B. Alvarardo; Attorney, R. Lockwood.

111. SISQUOC, *Santa Barbara Co.*—Date of claim, April 18, 1845; present claimant, James B. Huie; original, Maria Antonia Caballero; Attorney, John Wilson.

112. TWO-THIRDS OF SAN YSIDRO.—One square league, two thirds of which, is here claimed; date of claim, June 3, 1833; present claimants, Quintin Ortega and others; original, same; Attorney, J. Wilson.

113. *Mendocino Co.*—Nine square leagues; date of claim, November 15, 1844; present claimant, Rafael Garcia; original, same; Attorneys, Clarke, Taylor & Beckh.

114. TAMALES Y BAULENES, *Marin Co.*—Two square leagues; date of claim, March 29, 1836; present and original claimant, Rafael Garcia; Attorneys, Clarke, Taylor & Beckh.

115. SAN JACINTO, *San Diego Co.*—Four square leagues; date of claim, December 21, 1842; present and original claimant, José Antonio Estudillo; Attorneys, Sutherland & Carr.

116. SOBRANTE.—Five square leagues; date of claim, May 9, 1846; present claimant, José Antonio Aguirre, in right of his wife; original, Maria del Rosario Estudillo de Aguirre; Attorneys, Sutherland & Carr.

117. ISLA DE SANTA ROSA, *Santa Barbara Co.*—Date of claim, October 4, 1843; present claimant, Manuela Carrillo de Jones; original, José Antonio Carrillo y Carlos Carrillo; Attorneys, Halleck, Peachy & Billings.

118. CAÑADA LARGA, O VERDE, *Santa Barbara Co.*—One and a half square leagues; date of claim, January 30, 1841; present claimant, Joaquina Alvarado; originaly, same; Attorneys, Halleck, Peachy & Billings.

119. LA PURISIMA CONCEPCION, *Santa Clara Co.*—One square league; date of claim, June 30, 1840; present claimant, Juana Briones; original, José Gregorio y José Ramon, Neophytes; Attorneys, Halleck, Peachy & Billings.

120. CUYOMA, *Santa Barbara Co.*—Eleven square leagues; date of claim, June 9, 1846; present claimant, Maria Antonia de la Guerra y Lataillade and others; original, Cesario Lataillade; Attorneys, Halleck, Peachy & Billings.

121. Punta de la Laguna, *Santa Barbara.*—Six square leagues; date of claim, December 26, 1844; present and original claimants, Luis Arellanes y Emilio Miguel Ortega; Attorneys, Halleck, Peachy & Billings.

122. El Primer Cañon, near the Rio de los Berrendos, *Butte Co.*—Six square leagues; date of claim, May 22, 1844; present and original claimant, Francisco Dye. Attorneys, Halleck, Peachy & Billings.

123. San Bernardo.—One square league; date of claim February 11, 1840; present and original claimants, Vicente Cané; Attorneys, Halleck, Peachy & Billings.

124. El Sur, *Monterey Co.*—Two square leagues; date of claim, September 30, 1834; present claimant, J. B. R. Cooper; original, John B. Alvarado. Attorneys, Halleck, Peachy and Billings.

125. Posolmi including El Posito de las Animas, *Santa Clara Co.*—Three thousand and forty-two acres; date of claim, February 15, 1844; present claimant, Robert Walkinshaw; original, Lope Iigño; Attorneys, Halleck, Peachy & Billings.

126. Tulucay, *Napa Co.*—Two square leagues; date of claim, October 26, 1841; present claimant, Cayetano Jeares; original, same; Attorneys, Halleck, Peachy & Billings.

127. Las Juntas, *Contra Costa Co.*—Three square leagues; date of claim, February 9, 1844; present claimant, estate of William Welch; original, William Welch; Attorneys, Jones, Tompkins and Strode.

128. San Ramon, *Contra Costa Co.*—Four leagues and eighteen hundred varas; date of claim, August 17, 1835; present and original claimant, José Maria Amador; Attorney, William Claude Jones.

129. Flugge's Rancho, *Butte Co.*—Five square leagues; date of claim, July 21, 1844; present claimant Thomas O. Larkin; original, Chas. Wm. Flugge. Attorney, A. C. Whitcomb.

130. Larkin's Rancho, *Colusi Co.*—Ten leagues; date of claim, December 15, 1844; present and original claimants, Francis Larkin and others. Attorney, A. C. Whitcomb.

131. Jimeno Rancho, *on the Sacramento River*—Eleven leagues; date of claim, November 4, 1844; present claimants, T. O. Larkin and others; original, Manuel Jimeno. Attorney, A. C. Whitcomb.

132. Lomerias Muertas, *Monterey Co.*—One and a half leagues; date of claim, August 16, 1842; original claimant, José Antonio Castro; present, José Ma. Sanchez. Attorney, Thomas B. Godden.

133. Llano del Tequesquite, *Monterey Co.*—One and a half leagues; date of claim, October 12, 1835; present and original claimant, José Ma. Sanchez. Attorney, Thos. B. Godden.

134. SONOMA, *Sonoma Co.*—Town lot, one hundred and fifty by one hundred and thirty varas; date of claim, July 5, 1835; original and present claimant, M. G. Vallejo. Attorneys, Halleck, Peachy & Billings.

135. RANCHO DEL CONEJO, *Santa Barbara Co.*—Date of claim, October 10, 1822; present and original claimant, José de la Guerra y Noriega. Attorneys, Halleck, Peachy & Billings.

136. ESTERO AMERICANO, *Sonoma Co.*—Two leagues; date of claim, September, 4, 1839; present claimant, Jasper O. Farrell; original, Edward M. McIntosh. Attorneys, Halleck, Peachy and Billings.

137. SAN LUICITO, *San Luis Obispo Co.*—Date of claim, August 6 1841; present and original claimant, Guadalupe Cantua. Attorneys, Halleck, Peachy & Billings.

138. BOLSAS DEL POTRERO Y MORO COJO, *Monterey Co.*—Two leagues; date of claim, June 22, 1822; present claimant, J. B. R. Cooper; original, José Joaquin de la Torre. Attorneys, Halleck, Peachy & Billings.

139. OJAY, *Santa Barbara Co.*—Date of claim, April 6, 1837; present and original claimant, Fernando Tico. Attorneys, Halleck, Peachy & Billings.

140. SANTA ROSA, *San Luis Obispo Co.*—Three square leagues; date of claim, January 18, 1841; present and original claimant, Julian Estrada. Attorneys, Halleck, Peachy & Billings.

141. MILPITAS, *Santa Clara Co.*—One square league; date of claim, September 23, 1835; present and original claimant, José Maria Alvisu. Attorneys, Halleck, Peachy & Billings.

142. CAÑADA DE GUADALUPE, *San Francisco Co.*—Two square leagues, seven hundred acres of which are here claimed; date of claim, July 31, 1841; present claimant, Robert S. Eaton, original, Jacob P. Leese. Attorneys, Clarke, Taylor & Beckh.

143. *Butte Co.*—Date of claim, November 18, 1844; present claimant, John Bidwell; original, William Dickey. Attorneys, Crosby & Rose.

144. RANCHO DE COLUS, *on the Sacramento River.*—Two square leagues; date of claim, October 4, 1845; present claimant, Charles D. Semple; original, Jno. Bidwell. Attorneys, Smith and Whelan, and Halleck, Peachy & Billings.

145. SAN VICENTE, *Monterey Co.*—Two, and two and a half leagues; dates of claims, September 30, 1836, and March 11, 1842; present claimants, Concepcion Munras and others, heirs of Stephen Munras; original, Francisco Soto and Stephen Munras. Attorney, Wm. H. McKee.

146. RANCHO DEL PASO, *North Fork of American River.*—Ten square leagues; date of claim, December 20, 1844; present claimant, Samuel Norris; original, Eliab Grimes. Attorney, Todd Robinson.

147. Rancho de Honcut.—Seven square leagues; date of claim, December 22, 1844; present claimants, Charles Covilland and others, for the estate of John Sampson; original, Teodoro Cordua. Attorneys, Jones, Tompkins & Strode.

148. Los Tularcitos, *Santa Clara Co.*—Date of claim, October 4, 1821; present claimant, Antonia Higuera and others; original, José Higuera. Attorney, Thomas B. Godden

149. Llano del Abrevadero, *Santa Clara Co.*—Date of claim, about July 1, 1822; present claimant, Antonia Higuera and others; original, José Higuera. Attorney, Thos. B. Godden.

150. Rancho de las Flores, *Colusi Co.*—Three square leagues; date of claim, December 24, 1844; present claimant, Guillermo Chard; original, same. Attorney, E. O. Crosby.

151. Zanjones, *Monterey Co.*—One and a half square leagues; date of claim, August 20, 1839; present claimant, Mariano Malarin, Executor of estate of Juan Malarin; original, Gabriel de la Torre. Attorney, M. Malarin.

152. Guadalupe, *Monterey Co and Llanito de los Correos.* Two square leagues; date of claims, May 22, 1833 and 1835; present claimant, Marino Malarin for estate of Malarin for estate of Juan Malarin. Attorney, M. Malarin.

153. Buenavista, *Montery Co.*—Two square leagues; date of claim, May 28, 1822; present claimants, José Santiago Estrada and brothers; original, same. Attorney, M. Malarin.

154. Chualar, *Monterey Co.*—Two square leagues; date of claim, September 7, 1839; present claimants, estate of Juan Malarin; original, Juan Malarin. Attorney, M. Malarin.

155. Laguna Seca, *Monterey Co.*—One league by one half league; date of claim, June 22, 1834; present claimant, Catalina Manzaneli de Munras; original, same. Attorney, W. H. McKee.

156. Jacinto *Colusi Co.*—Eight leagues; date of claim, September 2, 1844; present claimant, Wm. H. McKee; original, Jacinto Rodriguez. Attorney, W. H. McKee.

157. Copay Rancho, *Colusi Co.*—Ten square leagues; date of claim, December 21, 1844; present and original claimant, Josefa Soto. Attorney, Wm. H. McKee.

158. On the Stanislaus River, foot of the Sierra Nevada, eight square leagues; date of claim, June 1, 1846; present and original claimant, Alfias Basilio Thompson. Attorneys, Halleck, Peachy and Billings.

159. Honcut, *Yuba and Butte Cos.*—Eight square leagues; date of claim, February 11, 1845; present and original claimant Enrique Huber; Attorneys, Halleck, Peachy & Billings.

160. La Jota, *Napa Co.*—One square league; date of claim, October 23, 1843; present and original claimant, George C, Yount. Attorneys, Halleck, Peachy & Billings.

161. Las Animas, *Santa Clara Co.*—Date of claim, Novem-

ber 17, 1802; present claimant, José Maria Sanchez; original claimant, Mariano Castro. Attorney, T. B. Godden.

162. ARROYO GRANDE O SAN RAMON, *San Luis Obispo Co.*—Date of claim, April 25, 1841; present claimant, Francisco Branch; original, Zeferino Carlon. Attorneys, Halleck, Peachy & Billings.

163. EL RINCON, *Santa Barbara Co.*—One square league; date of claim, June 22, 1835; present and original claimant, Teodoro Arellanes. Attorneys, Halleck, Peachy & Billings.

164. EL CORRAL DE TIERRA, *San Francisco Co.*—One sqnare league; date of claim, October 16, 1839; present claimant, Josefa Haro de Guerrero, and others; original, Francisco Guerrero Palomares. Attorneys, Halleck, Peachy & Billings.

165. HUICHICA, *Sonoma Co.*—Two square leagues; date of claim, October 26, 1841; present and original claimant, Jacob P. Leese. Attorneys, Halleck, Peachy & Billings.

166. HUILIC-NAMA, *Napa Co.*—Four square leagues; date of claim, March 14, 1841; present claimants, Maria Ignacia de Bale and others, heirs of Edward A. Bale; original, Edward A. Bale. Attorneys, Halleck, Peachy & Billings.

167. Part of the Rancho called LOS COCHES, *Santa Clara Co.*—One half square league; date of claim, March 12, 1844; present claimant, Antonio Suñol and others; original, Roberto, an emancipated Indian. Attorneys, Halleck, Peachy & Billings.

168. ARROYO DE LAS NUECES Y BOLBONES, *Contra Costa Co.*—Two square leagues; date of claim, July 11, 1834; present and original claimant, Juana Sanchez de Pacheco. Attorneys, Halleck, Peachy & Billings.

169. RANCHO DE LOS VERGELES.—Two square leagues; date of claim, August 22, 1835; present claimant, James Stokes; original, José Joaquin Gomez. Attorneys, Crosby, Rose & Belknap.

170. CORRAL DE TIERRA, *Monterey Co.*—Date of claim, April 15, 1836; present claimant, Henry D. McCobb; original, Guadalupe Figueroa. Attorney, Henry D. McCobb.

171. At the MISSION OF DOLORES, *San Francisco.*—Thirty-seven fifty vara lots; date of claim, February 10, 1846; present claimant, John Frederick Schultess and others; original, Prudencio Santillan. Attorney, J. F. Schultess.

172. MISSION OF DOLORES, *San Francisco.*—Forty-seven fifty vara lots; present claimant, John F. Schultess. Attorney, John F. Schultess.

173. OMOCHUMNES, *Sacramento Co.*—Five square leagues; date of claim, January 8, 1844; present claimants, Catharine Sheldon and Gabriel W. Gunn, for the estate of Jared Sheldon; original, Joaquin Sheldon. Attorneys, Robinson & Haggan.

174. CORRALITOS, *Monterey Co.*—Four square leagues; date of claim, April 1st, 1844; present and original claimant, José Amesti. Attorneys, Clark, Taylor & Beckh.

175. MISSION OF SAN DIEGO, *its lands and tenements.*—Date of claim, June 8, 1846; present and original claimant, Santiago Arguello. Attorneys, Halleck, Peachy and Billings.

176. ISLAND OF SANTA CRUZ, *opposite Santa Barbara.*—Date of claim, May 22, 1839; present and original claimant, Andres Castillero; Attorneys, Halleck, Peachy & Billings.

177. SAN LUIS OBISPO.—One hundred varas by 50: date of claim, September 30, 1844; present and original claimant, José Mariano Bonilla. Attorneys, Halleck, Peachy & Billings.

178. MISSION VIEJA DE LA PURISIMA, *Santa Barbara Co.*—One square league; date of claim, November 20, 1845; present and original claimants, Joaquin Carrillo y José Antonio Carrillo. Attorneys, Halleck, Peachy & Billings.

179. SAN RAMON, *Contra Costa Co.*—Two square leagues; date of claim, June 10, 1833; present claimant, Rafaela Soto de Pacheco and others; original, Bartolo Pacheco y Mariano Castro. Attorneys, Halleck, Peachy & Billings.

180. CAÑADA DA CAPAY, *Jurisdiction of Sonoma.*—Nine square leagues; date of claim, May 2, 1846; present claimant, Jasper O. Farrell; original, Santiago Nemesio y Francisco Berreyesa. Attorneys, Halleck, Peachy & Billings.

181. RANCHO DE SAN JUAN, *Sacramento Co.*—Four and a half square leagues: date of claim, December 24, 1844; present claimant, Hiram Grimes; original, Joel P. Dedmond. Attorney, A. C. Whitcomb.

182. BOSQUEJO, *Sacramento River.*—Five leagues square; date of claim, December 26, 1844; present and original claimant, Peter Lassen. Attorneys, E. Norton and John Wilson.

183. BUTTE COUNTY.—Five leagues; date of claim, December 22, 1844; present and original claimant, Samuel Neal; Attorneys, Crosby and Rose.

184. SOQUEL, *Santa Cruz Co.*—Two miles by half a league; date of claim, November 23, 1833; present and original claimant, Martina Castro Attorney, Martina Castro.

185. RANCHO DE LA BARRANCA COLORADA, *Colusi Co.*—Four square leagues; date of claim, December 4, 1844; present claimant, Wm. B. Ide; original, Josiah Belden. Attorney, Wm. B. Ide.

186. ARROYO SECO, *Monterey Co.* Four square leagues; date of claim, Dec. 30, 1840; present and original claimant, Joaquin de la Torre. Attorneys, Clark, Taylor & Beckh.

187. BOLSA DEL PAJARO. Two square leagues; date of claim, September 30, 1837; present and original claimant, Sebastian Rodriguez. Attorneys, Clark, Taylor & Beckh.

188. PENINSULA AT THE PORT OF SAN DIEGO.—Two square leagues; date of claim, May 15, 1846; present claimants, Frederick Billings and others, assignees of Bezer Simmons; original, Pedro C. Carrillo. Attorneys, Halleck, Peachy & Billings.

189. CORRAL DE CUATE, *Santa Barbara Co.*—Three square leagues; date of claim, November 14, 1845; present claimant, Maria de la Guerra y Lataillade; original, Augustin Davila; Attorneys, Halleck, Peachy & Billings.

190. CORRAL DE PIEDRA, *San Luis Obispo County.*—Two square leagues, and an extension of five leagues more; date of claims, May 14, 1841, and May 28, 1846; present and original claimant, José Maria Villavicencio. Attorneys, Halleck, Peachy and Billings.

191. EL TORO, *Monterey Co.*—One and a half square leagues; date of claim, April 17, 1835; present claimant, Charles Walters; original, José Ramon Estrada. Attorneys, Halleck, Peachy and Billings.

192. RINCON DE LA BALLENA, *Santa Cruz Co.*—One square league; date of claim, April 15, 1839; present claimant, Sebastian Rodriguez; original, José Cornelio Bernal. Attorneys, Halleck, Peachy & Billings.

193. EL MOLINO O RIO OJOTSKA, *Sacramento Co.*—Ten and a half square leagues; date of claim, December 23, 1833; present and original claimant, John B. R. Cooper. Attorneys, Halleck, Peachy & Billings.

194. LLAJOME, *Napa Co.*—One and a half square leagues: date of claim, March 16, 1841; present claimant, Salvador Vallejo; original, Damaso A. Rodriguez. Attorneys, Halleck, Peachy and Billings.

195. LOS TULARCITOS, *Monterey Co.*—Six square leagues; date of claim, December 18, 1834; present claimants, heirs of Rafael Gomez; original, Rafael Gomez. Attorneys, Halleck, Peachy and Billings.

196. NEMSHAS, *Yuba Co.*—Four leagues; date of claim, July 26, 1844; present claimant, Claude Chana; original, Teodoro Secard. Attorney, R. Rose.

197. CATACULA, *Napa Co.*—Two leagues; date of claim, November 4, 1844; present and original claimant, José B. Chiles. Attorneys, Crosby & Belknap.

198. SAN JOSE, *Marin Co.*—One and a half leagues; date of claim, October 3, 1840; present and original claimant, Ygnacio Pacheco. Attorneys, Irving and Rose.

199. RANCHO DE GERMAN, *Mendocino Co.*—Five square leagues; date of claim, April 8, 1846; present claimants, Charles Meyer and others; original, Ernest Rufus. Attorneys, Clark, Taylor and Beckh.

200. RINCON DE SAN FRANCISQUITO, *Santa Clara Co.*—Date of claim, March 29, 1841; present claimant, Teodoro Robles y Secundino Robles; original, José Peña. Attorneys, Clark, Taylor and Beckh.

201. AGUAS NIEVES, *Butte Co.*—Six square leagues; date of

claim, December 22, 1844; present and original claimant, Samuel J. Hensley; Attorneys, Crosby and Belknap.

202. CHIMILES, *Solano Co.*—Four square leagues; date of claim, May 2, 1846; present claimants, William Gordon and Nathan Coombs; original, José Ygnacio Berreyesa. Attorney, R. Rose.

203. QUESESOSI, *Yolo Co.*—Two square leagues; date of claim, January 27, 1843; present claimant, Wm. Gordon; original, same. Attorney, R. Rose.

204. CAÑADA DEL HAMBRE Y LAS BOLSAS DEL HAMBRE, *Contra Costa Co.*—Two square leagues; date of claim, May 8, 1842; present and original claimant, Teodora Soto. Attorneys, James and Brodie.

205. BOLSA DE TAMALES, *Jurisdiction of Sonoma.*—Five square leagues; date of claim, June 12th, 1846; present claimant, James D. Galbraith and others; original, Juan N. Padilla. Attorneys, Saunders, Hepburn & Bagby.

206. TEPUSQUET, *Santa Barbara Co.*—Two square leagues; date of claim, April 7, 1837; present claimant, Antonia Maria Cota and others, heirs of Tomas Olivera; original, Tomas Olivera. Attorneys, Crosby and Belknap.

207. RANCHO DEL REFUGIO, *Santa Cruz Co.*—One third of Rancho; date of claim, decree, April 8, 1839; present claimant Joseph L. Majors for his wife Maria de los Angeles Castro; original, Maria Candida, Maria Jacinta y Maria de los Angeles Castro. Attorney, John Parrott..

208 SAN AUGUSTIN, *Santa Cruz Co.*—One square league; date date of claim, April 21, 1841; present claimant, Joseph L. Majors; original, Juan Jose Crisostomo Mayor. Attorney, J. Parrott.

209. AGUA PUERCA Y LAS TRANCAS, *Santa Cruz Co.*—1 square league; date of claim, November 2, 1843; present claimants, Roman Rodriguez y Francisco Alviso; original, same. Attorney, John Parrott.

210. LA CARBONERO, *Santa Cruz Co.*—Half square league; date of claim, decree, February 3, 1838; present claimant, William Bock, original same. Attorney, J. Parrott.

211. ATASCADERO, *San Suis Obispo,*—One square league; date of claim, May 6, 1842; present claimant, Henry Haight; original, Trifon Garcia. Attorneys, Clark, Taylor and Beckh.

212. COPAY, *Colusi Co.*—Five square leagues, being half of the Rancho of Copay; See No. 157; date of claim, December 21, 1844; present claimant, Pearson B. Reading; original, Josefa Soto. Attorney, P. Ord.

213. LOS MEGANOS, *Contra Costa Co.*—Four leagues, north and south, and three east and west; date of claim, decree, October 13, 1835; present claimant, John Marsh; original, José Noriega. Attorney, S. P. Webb.

214. Refugio, *Santa Cruz Co.*—Three leagues long, by two leagues and five hundred varas wide; date of claim, April 7, 1841; present claimants, Francisco y Juan Bolcoff; original, José Bolcoff. Attorney, P. Ord.

215. San Miguelito, *San Luis Obispo Co.*—Two square leagues; date of claim, May 10, 1842; present and original claimant, Miguel Abila. Attorneys, Clark, Taylor and Beck.

216. Addition to San Miguelito.—Five hundred varas; date of claim, March 17, 1846; present and original claimant, Miguel Abila. Attorneys, Clark, Taylor and Beckh.

217. La Laguna, *Santa Barbara Co.*—Date of claim, November 13, 1845; present and original claimant, Octaviano Gutierrez. Attorneys, Halleck, Peachy & Billings.

218. Cañada, de los Osos and Pecho y Islay, *San Luis Obispo Co.*—Seven and a half square leagues; date of claims, December 1, 1842, and April 27, 1843; re-granted September 24, 1845, to Juan Wilson, and Diego Scott; present claimant Juan Wilson; original claimants, Victor Linares y Francisco Vadillo. Attorneys, Halleck, Peachy & Billings.

219. Tinacae, *Santa Barbara Co.*—Two square leagues; date of claim, May 6, 1837; present and Original claimant, Guillermo Domingo Foxon. Attorneys, Halleck, Peachy & Billings.

220. Cañada del Chorro, *San Luis Obispo Co.*—One square league; date of claim, August 10, 1845; present claimant, Juan Wilson; original, Diego Scott and Juan Wilson. Attorneys, Halleck, Peachy & Billings.

221. La Calera o Las Positas.—Extent not specified; date of claim, May 10, 1843; present claimant, Tomas M. Robbins; original, Narciso Fabregat; an additional grant of one and a half square leagues, July 1, 1846, to Tomas Robbins. Attorneys, Halleck, Peachy & Billings.

222. Cañada de Sal si Puedes, *Santa Barbara Co.*—One and a half square leagues; date of claim, May 18, 1844; present claimant, John Keys; original, Pedro Cordero. Attorneys, Halleck, Peachy & Billings.

223. Rancho del Corte de Madera de Novato, *Marin Co.*—Two square leagues; date of claim, October 16, 1839; present and original claimant, Juan Martin. Attorneys, Clark, Taylor and Beckh.

224. Mission of San Luis Obispo.—Part of the Mission buildings; date of claim, December 6, 1845; present claimants, John Wilson and others; original, Scott, Wilson and McKinley. Attorneys, Halleck, Peachy & Billings.

225. Rio de Santa Clara, *Santa Barbara Co.*—Date of claim, May 22, 1837; present and original claimants, Valentine Cota and others. Attorneys, Halleck, Peachy & Billings.

226. Willy, *on the Sacramento River.*—Four leagues square;

date of claim, December 22, 1844; present and original claimant, Michael C. Nye. Attorney, W. Walker.

227. AGUAS FRIAS, *Butte Co.*—Six square leagues; date of claim, November 10, 1844; present claimant, Andrew Randall; original, Salvador Osio. Attorneys, Crosby and Belknap.

228. TODOS SANTOS Y SAN ANTONIO, *Santa Barbara Co.*—Five square leagues; date of claim, August 28, 1841. COSUMNES, *Sacramento Co.*—Eleven square leagues; date of claim, March 16, 1846; present and original claimant, Guillermo Eduardo Hartnell. Attorneys, Halleck, Peachy & Billings.

229. At the MISSION OF DOLORES, *San Francisco Co.*—One lot four hundred varas square; date of claim, November 30, 1836; present claimant, Josefa Palomares and others, heirs of Francisco Guerrero; original, Francisco Guerrero. Attorneys, Halleck, Peachy and Billings.

230. RIO DE LOS PUTOS, *Yolo and Solano Cos.*—Four square leagues; date of claim, May 25, 1842; present and original claimant, Guillermo Woolfskill. Attorney, Henry Hancock.

231. EL VALLE DE SAN JOSE, *Contra Costa Co.*—Date of claim, April 10, 1839; present claimants, Antonio Suñol and others; original, Antonio Maria Pico and others. Attorney, A. P. Crittenden.

232. At the junction of the San Joaquin and the Stanislaus Rivers, *Tuolumne Co.*—Eleven square leagues; date of claim, May 2, 1846; present and original claimant, Juan Rowland. Attorney, A. P. Crittenden.

233. SOULAJULLE, *Marin Co.*—Four square miles, three square leagues being the whole extent of the tract; date of claim, March 29, 1844; present claimant, Joshua S. Bracket; original, Ramon Mesa. Attorney, Robert Hopkins.

234. SOULAJULLE, *Marin Co.*—One and three quarter square miles, three square leagues being the whole extent of the tract; date of claim, March 29, 1844; present claimant, George N. Cornwell; original, Ramon Mesa. Attorney, Robert Hopkins.

235. SOCAYRE, *on the Cosumnes River.*—Fifteen thousand varas, or three leagues; date of claim, December 22, 1844; present claimant, Emanuel Pratt; original, Juan Chamberlain. Attorneys, Hastings, Thomas and Morse.

236. LAS PUTAS, *Yolo Co.*—Eight square leagues; date of claim, November 3, 1843; present claimant, Maria Anastasia Higuera de Berreyesa and others; original, José de Jesus and Sisto Berreyesa. Attorneys, Brown, Pratt and Tracy.

237. CITY OF SONOMA, *Sonoma Co.*—Four square leagues; date of claim, June 24, 1835; present claimants, Mayor and Common Council of Sonoma; original, Pueblo of Sonoma; city incorporated in April, 1850. Attorneys, Robert Hopkins and Charles P. Wilkins.

238. RINCONADA DEL ARROYO DE SAN FRANCISQUITO.—One half square league; date of claim, February 16, 1841; present and

original claimant, Maria Antonio Mesa, widow of Rafael Soto. Attorneys, Clarke, Taylor & Beckh.

239. SANTA YSABEL.—Four square leagues; date of claim, November 9, 1844; present and original claimants, José Joaquin Ortega and Eduardo Stoke. Attorneys, Sutherland and Carr.

240. TEJON, *Valley of Tulares.*—Twenty-two square leagues; date of claim, November 24, 1843; present and original claimants, Antonio Aguirre and Ygnacio del Valle. Attorneys, Sutherland and Carr.

241. PASO DE ROBLES, *San Luis Obispo Co.*—Six square leagues; date of claim, May, 12, 1844; present claimant, Petronillo Rios; original, Pedro Narvaez. Attorneys, Crosby & Belknap.

242. CAÑADA DE SAN MIGUELITO, OR CAÑADA DEL DIABLO.—Two square leagues; date of claim, March 21, 1846; present claimants, Juana Tico de Rodriguez, and others, heirs of Ramon Rodriguez; original, Ramon Rodriguez. Attorneys, Halleck, Peachy and Billings.

243. CAYMAS, *Napa Co.*—Two square leagues; date of claim, February 23, 1836; present and original claimant, Geo. C. Yount. Attorneys, Halleck, Peachy and Billings.

244. LA LAGUNA SECA, *Santa Clara Co.*—Four square leagues; date of claim, July 23, 1834; present claimants, Liberata Ceseña Bull and others, heirs of Wm. Fisher; original, Juan Alvirez. Attorneys, Halleck, Peachy & Billings.

245. Part of SOULAJULLE, *Marin Co.*—Twelve square miles; date of claim, March 29, 1844; present claimant, Pedro J. Vasquez; original, Ramon Mesa. Attorneys, Robert Hopkins.

246. Part of SOULAJULLE, *Marin Co.*—Two and three quarter square milles; date of claim, March 29, 1844; present claimant, Lewis D. Watkins; original, Ramon Mesa. Attorney, Robert Hopkins.

247. Part of SOULAJULLE, *Marin Co.*—One half square league; date of claim, March 29, 1844; present claimant, Martin F. Gormley; original, Ramon Mesa. Attorney, Robert Hopkins.

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INV. 1550.

A STATEMENT

OF THE

GROUNDS OF THE CLAIM

OF THE

GROSCH CONSOLIDATED

Gold and Silver Mining Company,

TO THE

COMSTOCK MINE IN NEVADA TERRITORY:

TOGETHER WITH THEIR REPLY TO THE

ATTACKS OF THE PRESS.

BY BENJ. R. NICKERSON.

SAN FRANCISCO:
PRINTED BY TOWNE & BACON, BOOK AND JOB PRINTERS,
No. 536 Clay Street, opposite Leidesdorff.
1863.

23, 230

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The Washoe Silver Mining Company.

Organized March 1, 1860. *Incorporated under the Laws of California, under the Name and Style of the "Grosch Consolidated Gold and Silver Mining Company, July* 17, 1863.

CAPITAL - - - - $5,000,000.

President.

S. C. HASTINGS,

Secretary.

JOHN L. SAMUELS.

Directors.

S. C. HASTINGS,	IRA P. RANKIN,
M. HITCHCOCK,	W. H. PRATT,
D. J. DYER,	M. S. MARTIN.

☞ Office: Masonic Building, 420 Montgomery Street, San Francisco.

STATEMENT.

There having appeared in several of the leading journals of San Francisco and elsewhere what purported to be the history of the discovery and occupation, by the Grosch Brothers, of the District and lode known as the Comstock Mine, in Nevada Territory, all of which being so utterly devoid of truth, the Grosch Company prepared a correct statement of the facts upon which their claims are based to three-fourths of 3,750 feet of the Comstock Lead, and offered it to two papers that had been foremost in misrepresenting the case as also the purposes of the Company, (*Bulletin* and *Alta,*) both declining to publish the truth, averring that its publication would cause a further depreciation in the stocks of the leading companies located upon the ground included within our district, and would, therefore prove a serious injury to many of their friends.

We are, therefore, compelled in justice to ourselves, as also the public, to publish by circular the material facts, that parties claiming adversely to us may have no further excuses founded upon their ignorance of our claims. We also append our reply to the assaults of the press in the interest of parties in possession, claiming entire ownership by virtue of title derived from Comstock:

In the year 1853, two young men, brothers, of highly cultivated intellect and scientific attainments, by the names of E. Allen and Hosea B. Grosch, sons of Aaron B. Grosch, clergyman, of Marietta, Pa., crossed the Plains en route for California. In August of that year, they arrived at the point now called Dayton, in the then Territory of Utah, where they stopped a few weeks in order to recruit themselves and animals, before attempting to cross the dreaded Sierra Nevada. While there they prospected for gold in the small cañon near by, and extending to Gold Cañon, above the Devil's Gate.

FIRST DISCOVERY OF SILVER.

During their stay they discovered what they subsequently found to be the "sulphate carburet of silver," in considerable quantities, above the Devil's Gate, and near where Silver City now stands. In September, they crossed the mountains and located at Sugar Loaf District, near Mud Springs, in El Dorado County, mining in the gold placers during the Winters of 1853–4. In the spring following, they determined to return to Utah and more definitely explore their silver district, where they labored the whole summer, sinking numerous shafts in the cañon, upon the ground now embraced within the Silver City and Gold Hill District, taking therefrom rich rock, which they assayed in a smelting furnace by them erected in a ravine near by their cabin, where both are now plainly to be seen, together with many other specimens taken from the croppings of ledges in the vicinity. In the fall, they returned to their claims in El Dorado County, in order to furnish themselves with provisions to continue operations the coming spring, where they worked the summer of 1855, keeping their own counsel until they again returned to Mud Springs, in the fall.

ORGANIZATION OF THE COMPANY.

In the Spring of 1856, several of their neighbors, to whom they had communicated their discoveries and exhibited their assays, in many instances yielding from four to six hundred dollars per ton, joined them. Some furnished means, and others returned with them to Washoe, and worked for several months in the summer of 1856, with satisfactory results; all returning to El Dorado in the fall. In the spring of 1857, the Grosch brothers employed other help, and returned to continue their prospecting, as also to prove more thoroughly the veins already opened, extending their prospecting on the ravine above, where now Silver City and Gold Hill are located. They tested the croppings of the ledge where the Gould and Curry claim is now located, in what the Grosch Brothers then styled their Hill or Mountain District. Further north, a few hundred yards, they sunk a shaft on the identical ground now occupied by the works of the Ophir Company, where Virginia City is built. From this shaft they took out several tons of rock which they in their assays pronounce "carbonate of silver," or "carburet of silver and lead." This rock, in several letters to their father, written in '56–7, they pronounce an "85 per cent. silver ore," and the quantity inexhaustible. They further say, "We have the highest hopes, and are entirely sanguine of success."

DEATH OF HOSEA B. GROSCH.

In the month of September, Hosea B., while engaged on the shaft, struck his foot with a pick. Erysipelas ensued, and he died. After the death of his brother, E. Allen gave up the idea of working the claim through the winter, and on the 11th of December he made a written contract with a man with whom he had become acquainted, by the name of *Comstock*, to the effect that Comstock should go into their cabin and take charge of the hill claim during the absence of E. Allen to winter in El Dorado, for which service he stipulated to give Comstock a fourth undivided interest in the hill claim, which they had taken up, *giving the usual notice by posting; they also made a record and diagram of the ground*, claiming three thousand, seven hundred and fifty feet north of the ledge where the first notice was posted, and extending beyond the ravine on the north side of Virginia City.

DEATH OF E. ALLEN GROSCH.

On the 14th of December, E. Allen started in company with a young man by the name of Burk (now of Montreal, Canada) to cross the mountains to California. Passing the first summit to Lake Valley, they were overtaken by a snow storm, and after wandering for eleven days, hardly knowing where, they were taken by some Mexicans to a place called "Last Chance," in Placer County, exhausted by hunger and having all their feet frozen. At the house of Mr. Harrison (late of the Assembly from Placer County, now of Healdsburg), they received every possible attention. Burk had one foot amputated, and he recovered; young Grosch refused to submit to amputation, and the third day he died. In the spring following,

COMSTOCK,

hearing the death of young Grosch, began to bestir himself to realize the *entire* value of the estate with which he had been intrusted. He soon found willing listeners to his exhibits of marvelous assays by the Grosch Brothers, who contracted with him that for his title and possession they would pay him, Comstock, ten thousand dollars in cash and ten thousand in merchandise. They also stipulated to give Comstock one-eleventh of the net proceeds of the mine, provided the rock proved as rich as the Grosch Brothers' assays.

Judge Walsh and others tested several hundred pounds of the rock, found it rich, bought of Comstock his title, gave the lodes the name of the Comstock claims, and at once commenced operations on a gigantic scale, claiming the *whole* district as included in their purchase of Comstock. Judge Walsh, holding under Comstock, with the sagacity for which he has always been distinguished, took good care to sell out as soon as possible, to parties now claiming entire ownership, for several hundred thousand dollars, before the extent of their plot should be discovered, to control the interest of the Grosch Brothers and their legal representatives. Parties resident of El Dorado who had become familiar with the operations of the Grosch Brothers and had furnished them means during the time of the early development of the claims, concluded that they had undoubted rights, and that the father of the Grosch Brothers and heir-at-law to their estate had also equitable and just claims. They, in the Spring of 1860, organized The "Washoe Silver Mining Company," furnished means, employed a business agent, who went to the States and made, for a valuable consideration in cash, a contract with the father of the Grosch Brothers to take possession of the interest of his deceased sons. Matters of form only delayed their action, which having now been obviated, by absolute Deed of Conveyance, the said parties have organized their company under the General Incorporation Laws of this State, and now claim and demand their legal and equitable rights under the name and style of the "Grosch Consolidated Gold and Silver Mining Company."

REPLY TO THE ATTACKS OF THE PRESS.

The "Evening Bulletin," with its characteristic unfairness, leads the van in assaults upon the Grosch Company, at the especial instance of the Secretary of the San Francisco Board of Brokers and comes to the rescue of its patrons after this wise:

"Bombshells in the Comstock ledge—Tremendous effort to bear the stock-paying companies at Washoe—The Grosch Consolidated Gold and Silver Mining Company claim the whole of the Comstock ledge, or at least three thonsand seven hundred and fifty feet—To be at once tested in the United States Courts—The papers have been submitted to the Hon. Reverdy Johnson, Daniel S. Dickinson, Judges Amasa J. Parker, N. K. Wheeler, — McHenry, S. W. Sanderson and Edward Tompkins, who have agreed to prosecute the claim, and take a contingent fee (in feet)—How it will go in a country where Limantour and other gigantic swindlers have had their day, every reader can predict for himself. Presuming all the facts alleged in regard to the Grosch Brothers' title to the Comstock mine to be true, it will require *much argument* to show *(us)* that they have *any* title whatever." We know, Mr. Editor, of no *arguments* likely to reach your case, except they be *round* in shape, *yellow* in color, and *metallic* in character; these we can bestow more advantageously than squandering them on your sort—especially as you notify us in advance that it will require *much* to "convince you." They further say, "We state the *fact* that there is a big bear in the market: but the animal must be met man-fashion."... "We have our doubts whether the action would be sustained, for the following (cogent) reasons:" 1st. "We have heard of a very mean son of a very mean man, who sued his father for begetting him." *We*, too, know a son of a man where *we* think the action would be sustained in favor of an outraged public. The "Bulletin" further proceeds to demolish our claims: Reason 2d. Speaking for "Lord Clive," they say: "By G—, I am surprised at my own moderation." Speaking for and in behalf of those parties whose claims are not involved within our discovery and location, they ask: "Don't the great cock turkey think that we are fit to be gobbled up?" As against trifling nonsense like this, the Grosch Company have no arguments to oppose. They carry upon their face the best answer that can possibly be given. Parties conscious of their rights will always find arguments based upon the facts of the case, and seldom descend to ridicule or billingsgate.

The "Daily Alta" usually just, and edited and controlled by gentlemen, after giving our claim a long review, in the main substantially correct, are betrayed into the following gross misstatements: "Whether the

Grosch Brothers obtained their eighty-five per cent. silver ore from the Comstock lode is a matter of conjecture."

While we hold scores of assays made by them and forwarded to their father at the time, besides the evidence of many living witnesses who worked with them for months in 1857 upon the identical grounds now occupied by the works of the Ophir Company in the (now) city of Virginia, besides others who are familiar with all the facts. They further add, "The Grosch Brothers never took up five thousand feet of the Comstock lode as their mining claim." The assignees of the estate of the Grosch Brothers only claim three-fourths of thirty-seven hundred and fifty feet, unsegregated, of the ground located and occupied by them in 1856–'57, as by their *notices and records fully appear*, one-fourth having been sold to Comstock, in whose charge their interests were left in the month of December of '57, and through whom the adverse claimants now hold all the title that Comstock himself had, it being as per written contract, "one-fourth of the silver ledge in the Hill District, commencing at a point of rocks west of the trail beyond the brow of the hill and extending north thirty-seven hundred and fifty feet or thereabouts, to the notice upon the ravine." The Grosch Company claim no rights that Comstock owned, or that he could convey by virtue of his part ownership—his title is theirs. No sophistry or mystification can change this common principle of law or equity. They further say, "The Grosch

Brothers owned nothing save the *hole* which they dug." What a wonderful discovery in the science of law. Miners locating claims have no right to the minerals therein, "they only own the holes they dig." Mr. Editor will you not accept from the grateful miners a (leather) medal, in consideration of your logical exposition of the laws protecting their interests? Again, "They made no record of anything." Here seems to be revealed an attribute hitherto confined to Omnipotence. Still further, "Discovery *does not give title*, neither does *discovery and occupation*." Most profound logician! Miners will be glad to be informed what does give title to the minerals if "discovery and occupation does not." The Alta closes its arguments against our rights by saying that "the Grosch claim is denounced by many as a mere black-mailing operation." By whom, Mr. Editor, except by parties holding by virtue of title derived from Comstock, and such others as they employ to misrepresent our claim and traduce and villify parties interested therein." They conclude by admitting that "the question of title must be determined, not by denunciation of black mail, or of the motives of those who formed the Grosch Company, but on law and evidence." They say the utmost extent to which the Grosch Brothers could have title was eight hundred feet for the two, "and if the Grosch Company recover that amount they will do far more than reasonable people expect." The Grosch Company ask no defense of themselves or of their motives, trusting that they will not suffer by comparison with those now engaged in trying to manufacture public opinion against the merit of their claim.

Why, most learned counselor, cannot the Grosch Brothers hold the full extent of their location, 3,750 feet, as per their *notice, record, and diagram.* What law of Congress in the year of 1856–7, forbid discoverers and locators in the Territories of the United States claiming the extent of their discovery? Suppose within the maritime jurisdiction of the United States they had discovered a guano island, by what law would you confine them to "800 feet for the two," and with whom should they divide; and would or not "discovery and occupation" be a good title according to the laws of the land, as against all subsequent claimants? Again, according to the local mining laws on this coast, all of which have been recognized by local legislative enactments and the doctrine fully sustained by our Courts, the Grosch Brothers being the only parties prospecting even, for silver, in the years 1853–4–5–6 and 1857, within the Territory of Utah, they clearly had a right to fix the bounds of their "discovery and occupation," "being a law unto themselves," and giving laws to those who should come after them within their defined limits; and well might Lord Clive exclaim: "I wonder at their moderation." The circumstance that others now know, that the claim is rich beyond precedent, in no manner changes or weakens their rights as the original "discoverers and locators" of the whole district claimed by them. The Miner's Journal essays to characterize our incorporation as "one of the most silly moves in mining stocks which has occurred during the present week." They "assure the holders under Comstock that there is not the least danger; that they can *rely* on *our* statements; and that they can safely invest in any of the mines on the Comstock lead." Notwithstanding this assurance not one foot can be sold while the title is being investigated to a man of common sense.

The "TERRITORIAL ENTERPRISE," published in Virginia City, under the immediate control of parties claiming title under Comstock, comes to us laden with the following *answers* to the statement made by us of the grounds of our claim. They say: "We have devoted some study to Mother Goose's Nursery Ditties; we regret to see how rapidly that valuable work is becoming obsolete. The organization of the Grosch Consolidated Mining Company bid us hope that future generations of infants may be delighted with ballads as nonsensical and ridiculous." They *argue* further: "Whoever finishes the work will receive the gratitude of all nursery maids, and an endless fame among Washoe children. Our babies will sing with infantile joy when their mothers sing:

"Who owns the Comstock?"
We, say the Grosches,
So loud and ferocious;
We own the Comstock.

"What is your title?"
Shameless audacity,
Fraud and rapacity;
That is our title.

The *argument* continues, the metre only is changed:

"Work away, baby, upon the big lode,
While the Grosches keep silent your title is good;
When they get angry, your title will fall,
And down comes Ophir, Gould-Curry, and all."

"The Ophir and the Comstock,
  Was rich as bread and honey,
The Gould & Curry, further south,
  Was raking out the money.

"The Savage and the others
  Had machinery all complete,
When in came the Grosches
  And nipped all our feet."

As a suitable accompaniment and fit *finale* to the villainous attacks upon the Grosch Company and its purposes, the Virginia "DAILY UNION," edited by that imp of infamy and escaped refugee from the officers of the law of St. Joseph, Missouri, Thomas Fitch, *Junior*, exclaims with *virtuous* indignation:

"Shades of Limantour and Peter Smith, hide your diminished heads! Ghosts of Galpin and Gardner, retire at once to the fifth rank of swindlers!"

Thus the rights of the Grosch Company are sought to be prejudiced without evidence or argument, by applying to them the vilest epithets by the lowest scullions that disgrace the land, through the medium of a licentious, subsidized press, harlot-like, selling themselves to whoever will buy, and polluting the very atmosphere through which they move by their shameless, unblushing prostitution.

We present the above puerile *defense* of the adverse claimants, who seem to be "whistling to keep their courage up," making no comments. They might, perhaps, amuse brainless editors, nursery maids and their infantile proteges, but men of ideas, whose money is at stake, will naturally require sounder arguments.

It is published as a part of the proceedings of the San Francisco Board of Brokers, the passage of a resolution that the stock of the Grosch Company shall not be sold at their Board, and that any member thereof dealing in the same shall be expelled therefrom.

Gentlemen of the Board of Brokers: The Grosch Company have not offered their stock in the market, nor do they expect so to do. The holders are satisfied to keep it as an investment, and are entirely able to do so, and if any one chooses to sell any portion of his interest, they would naturally beg to be excused from placing it upon the list of wild-cat incorporations with which your conclave daily amuse yourselves at 12 m., something after the following fashion: President calls "Wild Goose, Tamaulipas, Mexico, worth, possibly, two bits the hundred acres; dealer offers a few feet, friend bids daily until $11 50 a foot is reached, when, perhaps a greenhorn is induced by broker to give an order for it, when it is sold "without reserve;" dealer pockets the money, owner pays the assessments. "Nip up" is then called with like results; when "Gone Case" takes the rounds, dealer takes a few feet for a *friend.* Finally Gould & Curry is called, and large "transactions" transpire; several hundred shares are sold at full prices.

"Ophir," "Savage," "Central," all buoyant; not a dollar, however is paid, and not a share changes hands. After adjournment, these "proceedings" are published as the "operations" of the San Francisco Board of Brokers, when not one share could be sold to a legitimate, *bona fide* purchaser within twenty-five per cent. of the daily quotations of the Board.

These operations of late having become so notorious the more respectable portion of the Board have withdrawn and formed a legitimate "Stock Exchange," in accordance with the pressing demand for a Board in which the community had some confidence. The Grosch stock must not be brought into competition before the Board lest "transactions" in the "leading stocks" should cease, and seats in that body said to be worth two thousand dollars, recede like the stocks of the "Nip Up" to their original nothingness, and the holders thereof be compelled to change their "base of operations," and, perchance, betake themselves to an honest calling.

It is generally conceded that the GROSCH BROTHERS were the pioneers in search for silver east of the Sierra Nevada, long before the name of Comstock was heard of. The Virginia City Directory for 1863, published under the immediate auspices and supervision of the adverse claimants, admits, speaking of the discovery of silver in the Territory, that "certain pioneers entertained the idea several years before the Comstock lead was discovered," the notion having been confined to a couple of brothers named Allen and Hosea Grosch. They emigrated to this side of the mountains as early as 1855; "that these men seem to have been possessed of a good deal of knowledge in regard to minerals," and had in *some* manner got the impression that there were silver veins east of the Sierras; that they were *constantly* engaged obtaining samples of rock and testing it for silver. That these men would have been forgotten but for the finding of that metal so *near* the scene of their explorations. In the year 1857, Hosea Grosch, while at work in the shaft, stuck a pick in his foot, which proved fatal. At *this* time COMSTOCK gave *his* name to the celebrated silver lead," etc. Notwithstanding there seems to be grave doubts among those holding under Comstock, whether the Grosch Brothers had not abandoned their discovery, or at least left it in such a manner that it was liable to occupation by others, or that their title lapsed at the time of their death. It would seem a sufficient answer to queries like these, that the younger brother lost his life by accident while at work on the shaft near by where his manly form now lies mouldering, an uncomplaining, unresisting sentinel, surrounded by Goths and Vandals, who would fain enter the confines of his lonely sepulchre, disenshroud his icy limbs, and rob his venerable father of the inheritance of his unfortunate son, the surviving brother having lost his life also, making his escape during the severity of the winter of 1857, from that then desolated and almost uninhabited region. Before leaving, however, he took the precaution, as he had done the three winters previous, to leave an agent on the spot in charge of his possessions, who, after his death, conveyed the title, so far as his power to do so extended, to Judge Walsh and others, holding a contract with the surviving brother on the 11th of December, 1857, for a fourth undivided interest in the Hill silver ledge, in consideration of his (Comstock's) services in remaining on the ground through the winter and *protecting* the mine until the return of young Grosch in the spring. The assignees of the estate of the Grosch Brothers claim, as their property, three-fourths of the 3,750 feet located by them, and now known as the Comstock Lead in Nevada Territory, included in which are the subdivisions known now as the

	No. Feet.
Gould & Curry	1,200
Best & Belcher	225
Dick Sides	500
White & Murphy,	210
Kinney	60
Central No. 2	150
California	300
Central No. 1	150
South Ophir	200
Mexican	100
North Ophir	655

together with the net profits arising therefrom since the occupation by others, in whosoever hands the same may be found, regardless alike of the threats of resistance and assassination so freely indulged in, reminding that sort of gentry that the days of Casey, Mulligan, McGowan, and Mayfield "are played out;" that a Government exists that is proving itself competent to enforce its authority within its entire domains. The Grosch Company propose no barricades, they mount no columbiads; they appeal to a Court of competent jurisdiction, confidently relying upon the merits of the case. If successful, they will feel a just pride in having faithfully done a duty to themselves as also to two unfortunate brother pioneers, whose hard-earned fame and estate had well nigh been swallowed up by the rapacity of usurpers, in a general scramble to monopolize the vast wealth of the mineral region of which they were the discoverers. If the investigation shall not show an undoubted title in themselves as assignees, parties in possession need have no fears, they will hear no more from the

GROSCH CONSOLIDATION GOLD AND SILVER MINING CO.

J. C. Bross

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THE

BOARD OF COMMISSIONERS

OF

CALIFORNIA LAND CLAIMS.

OPINION OF THE BOARD
DELIVERED BY HARRY I. THORNTON.
ON THE CLAIM OF CRUZ CERVANTES.

OPINION DELIVERED BY HILAND HALL.
ON THE CLAIM OF PEARSON B. READING.

OPINION DELIVERED BY JAMES WILSON.
ON THE CLAIM OF CARMEN SIBRIAN DE BERNAL.

SAN FRANCISCO:
PUBLISHED BY MONSON, HASWELL & CO.,
NO. 272 MONTGOMERY STREET.
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COMMISSIONER THORNTON.

ERRATA.

Page 12, 27th line, "his dominion," read his *domain.*
Page 13, 24th line, full point after facts, the sentence commencing "Whatever."
Page 16, 14th line, "the petition," read *petitioner.*
Page 17, 12th line, for "conjunctions," read *conjunctures.*
Page 19, 29th line, "to be made," read *to the mode*; 33d line, "than," read *by ;* 43d line, for "1838," read 1828.
Page 32, 2d line, "which and," read *which end.*
Page 33, 29th line, "of the granting," read of the *grantees.*
Page 35, 29th line, "this imposition," read *their* imposition; 36th line, "to pent," read to *put.*
Page 37, 2d line, "a revisal," read a *reversal.*
Page 38, 8th line, "require," read *acquire.*
Page 39, 7th line, "Preston's Ten., Reports," read *Overton's ;* 23d line, "where signification," read *whose* signification; 31st line, for "Nartidas," read *Partidas.*
Page 40, 2d line, "claims," read *clauses ;* 5th line, "and has," read and *he* has.
Page 43, 23d line, "that if the," read that is *of* the.
Page 47, 25th line, "the second record," read *the record.*

promptly to examine the same, upon *such evidence,* and upon the *evidence* produced in behalf of the *United States*, and to decide upon the validity of the said claim, and, within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the District Attorney of the United States, in and

OPINION OF COMMISSIONER THORNTON.

CRUZ CERVANTES, Claimant,
vs.
UNITED STATES, Defendant.

Before I enter upon the consideration of the questions which relate directly to the validity of the claim in this case, I will give my views of the *subject* upon which this Board was intended to act, and of the *foundations* upon which any opinion that I feel authorized to give, must rest under the Act of the 3d March, 1851. A distinct annunciation of this basis is not only due to those who are to be affected by the administration of this Act of Congress, but being settled in my own mind, will serve as the polar star to guide me through the wide tract of conflicting opinions, which have been the subject of an anxious and protracted discussion. The 8th and 11th sections of the Act, taken together, furnish the chart of our procedure. In the first named, i. e., the 8th, it is enacted, "That each and every person claiming lands in California by virtue of *any right or title* derived from the Spanish or Mexican Government, shall present the same to the said Commissioners when sitting as a Board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims: and it shall be the duty of the Commissioners, when the case is ready for hearing, to proceed promptly to examine the same, upon *such evidence*, and upon *the evidence* produced in behalf of the *United States*, and to decide upon the validity of the said claim, and, within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the District Attorney of the United States, in and for the District in which such decision shall be rendered." This section declares fully the *subject matter* upon which we are to decide, that is, the *validity* of any *right* or *title* derived from the source mentioned; it declares the *evidence* upon *which alone* that decision is to be rendered,—being that introduced by the claimant on the one side, and the United States on the other. Having thus stated the *subject matter* and the *evidence* upon which we are to decide it, in the 11th section it proceeds, with the same distinctness and precision, to declare *the law* by which we shall be governed. That section is in the following words: "That the Commissioners herein provided for, and the District and Supreme Courts, in deciding on the validity of any claim brought before them under the provisions of this Act, shall be governed by the Treaty of Guadalupe Hidalgo, the law of nations, the laws, usages and customs of the Government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable." With respect to the *subject matter* of our action, and the evidence upon which that action is to be had, the line of our duty, as prescribed in the 8th section of the Act, is palpable and easy to be pursued: but in the 11th section, which declares the law that is to govern us, a broad field is opened to our view, and each landmark demands the most particular regard. The Treaty of Guadalupe Hidalgo is the first in the order of enumeration. This treaty contains nothing more, so far as it bears upon *this case*, than a recognition of the doctrine which is enforced in the second head, or the law of nations, viz: that in all cases of the acquisition of foreign territory by any nation, the *private property* of the former inhabitants shall be held inviolate. The next enumerated ground of decision is, the laws, usages and customs of the former Governments from which the claim is derived. This embraces all the written laws which authorize and regulate the disposition of the public domain; as also all those laws which relate to the form, the construction, and whatever else may affect the instruments of conveyance employed for that purpose, and to the conditions which are annexed or which are authorized to be annexed to the grants in question. The customs and usages of the country as they may relate to the same subject, are also to govern us. There is no great difficulty in determining the nature and extent of the influence of these laws, customs and usages upon the subjects to which we are to apply them; but I have felt more difficulty on the question, how far we are to notice them *judicially*, without their being brought before us, like foreign laws, duly authenticated, or established by the evidence appropriate to their respective natures. The correct adjustment of this question is of great importance to the parties in the causes submitted to this Board, and I feel bound to advert to it, as it has created some difficulty in my mind in the consideration of the points arising in them. With regard to the unwritten customs and usages to which are imparted by the Act constituting this Board, the force and effect of written law, their establishment, as it seems to me, requires the application of the rules governing the proof of other facts. Those whose rights are to be materially affected by them, ought to have the opportunity of examining the sources from which they are derived or the witnesses who communicate them, and be allowed to show, by other witnesses, that such is not the custom or usage, or even to discredit the witnesses who testify to them. The difficulty which I feel on this subject is not removed by the recent decision of the Supreme Court of the United States, reported in xi. Howard, 668, United States *vs.* Turner & Co. The court was not called upon to do so, nor do I think they did decide this question in that case. It seems that the counsel for the appellees moved for an issue, to be *tried by the jury*, whether the grant in question was perfect and complete or not, by the laws of Spain in force, in the province of Louisiana, when it was made. The Supreme Court decide that there was no error in the refusal of the court below to grant that motion, and proceed to say :—" The Spanish laws which formerly prevailed in Louisiana, and upon which the titles to land in that State depend, must be *judicially noticed and expounded by the court*, like the laws affecting titles to real property in any other State. They are questions of *law* and not questions of *fact*, and are always so regarded and treated in the courts of Louisiana. And it can never be maintained in the courts of the United States that *the laws of any State* of this Union are to be treated as the laws of a foreign nation, and ascertained and determined as a mattter of *fact*, *by a jury*, upon the testimony of witnesses. And if the Spanish laws prevailing in Louisiana, before the cession to the United States, were to be regarded as foreign laws, which the courts could not judicially notice, the titles to lands in that State would become unstable and insecure ; and their validity or invalidity would in many instances depend upon the varying opinions of witnesses, and the fluctuating *verdicts of juries*, *deciding upon questions of law* which they could not, from the nature of their pursuits and studies, be supposed to comprehend." Now, if all that was intended by the court was, that the construction, the ascertainment and determination of the force and effect of a foreign law were not matters proper to be referred for the decision *of a jury*, and that the proof of such law was not for *them*, but *for the court*, then the decision would be in accordance with the settled doctrine, Consequa *vs.* Willing, Peters, C. C., Repts. 225. So also if the court intended to decide that the courts of the United States would notice judicially the laws of a State, and that the laws in question were to be regarded as the laws of Louisiana, by virtue of their recognition as such by the judicial tribunals of that State, the particular point now mooted would not be embraced in the decision: for in the absence of any means by the publication of the decisions of the tribunals of California, I do not know what those decisions are. But if the Supreme Court in the case in xi. Howard, above cited, is to be considered as deciding,—that because the laws of Spain once existed in Louisiana, and continued to control and even to constitute a part of the titles which were made under them to many citizens, then subjects of Spain, but now of Louisiana, they were *on that account* now to be regarded as the laws of Louisiana and not as foreign laws, then it seems to me that the decision is not in accordance with, but contrary to, the prior determination of the court, so explicitly made, that I do not think it would have been overruled without making the slightest allusion to it. In the case of the United States, and Wiggins reported in xiv. Peters, 345, brought up from Florida, and decided under an Act of Congress, requiring, as the Act of 3d March, 1851, does, the claims to be adjudged and determined, among other things, by the laws, usages and customs of the former Government, the opinion of the court contains the strong language which I quote:—"Much evidence was introduced to prove the *practice* and *rules* in use in the offices of the Spanish Government from which titles to land issued. We think the evidence was admissible; the existence of a foreign law *especially* when unwritten, is a fact to be *proved*, like *any other fact*, by appropriate evidence. The Spanish province of Florida was *foreign* to this country in 1815, when the transaction referred to purports to have taken place." The practice of the Government in disposing of the public domain may be proved by those familiar with the customs, and there is in the record very satisfactory proof by witnesses, of *the laws* and *customs* governing the provincial authorities. If the court in this case had merely declared that such evidence *was admissible*, and that the admission of such proof, even to establish a matter of law,—which would be judicially noticed without such proof,—was not ground of error, being only supererogatory, doing no injury, but perhaps affording facility to the court in coming to the accurate knowledge of it, then nothing could be deduced from the decision material to the question. But the language is strong and emphatic in the declaration of a positive rule of law upon the subject. It may be that the decision in the xi. of Howard goes to the extent of settling this question against the view taken in xiv. Peters, though I am inclined to the opinion that it was founded (so far as it goes beyond the overruling the allegation of error in the court below for refusing to submit the question to a jury,) *upon the fact* that in Louisiana the former laws of the country were continued in force after the change of Government; whereas, in Florida, as in *California*, the English common law is adopted by the Legislature as the fundamental rule of jurisprudence. It cannot fail to be observed that the remarks made by the Chief Justice in delivering the opinion in xi. Howard, as to the consequences of a different course from that pursued by the court below, have no application unless they relate to the determination of the force, and effect, and construction of those laws *by a jury*, instead of *by the court;* because, whether they are noticed judicially, or introduced and proved to the court, the result would be the same as to the stability and security of title; for in either case, *the court* and not *the jury*, would ascertain and expound them, and the same stability and security be attained in the one case as in the other.

The next legal ground to govern us in our decisions is the principles of equity. What meaning is to be attached to the terms "*principles of equity*," whenever they occur in any Act of Congress of the United States, I apprehend admits of no doubt. They are those principles which form that venerable fabric known to the American people as the system of Equity Jurisprudence. It is a monument whose chief corner stone was laid by Lord Hardwick, but whose superstructure has been gradually erected by the co-operation of men of the brightest intellects and the purest characters, who have ever adorned the ermine. Many of its proudest contributions have been furnished by illustrious citizens of our own country, "*who have left their works behind them.*" In this department of human excellence the tribute of grateful recollection should always be paid to the names of Marshall, and Kent, and Story. It will be our humble duty to make the application of those principles to the cases as they arise;—taking care, in doing so, not to forget that Equity—illustrious as she is—is still but a handmaid to the law, and that one of her cardinal maxims is, *Equitas sequitur legem.*

The last ground of law enumerated in the section of the Act mentioned above to govern us in determining on the validity of claims, is the decisions of the Supreme Court of the United States, so far as applicable. In entering upon the consideration of this ground of adjudication I will remark, that the opinions of that honored tribunal ought to command the respect of all inferior jurisdictions; and not only is that general obedience enjoined upon us, but especial reference is had to that body of learning which has, through years of patient investigation, been amassing in their reports upon the various questions of public law and private rights arising under the treaties by which we acquired foreign territory, and upon Acts of Congress passed in reference to them, and especially to those decisions which have been made upon laws passed after, and with reference to the treaties of *Paris* and *Washington*, by which we acquired Louisiana and Florida. To determine the applicability of those decisions to questions arising under the Treaty of Guadalupe Hidalgo, by which we acquired California, and the Act of the 3d of March, 1851, it is proper to compare *those* treaties and laws *with this last treaty* and Act of Congress. The stipulations of those treaties, so far as involved in this matter, I will briefly state. In the 2d article of the Treaty of Paris, the terms of cession of public domain are as follows: "The islands belonging to Louisiana, all public lots and squares, vacant lands, &c., which are not private property;"—excluding, by the strongest implication, a cession to the United States of *any private property.* In the 3d article, after the stipulation to incorporate the inhabitants in the Union, with the enjoyment of all the rights, advantages and immunities of citizens of the United States, it concludes with the words:—"And in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess. By the Treaty of Washington, in the 2d article, as in the Treaty with France, a cession is made of all islands, vacant lands, &c., which are *not private property.* And a special article is introduced, being the 8th, that all grants of land made before the 24th day of January, 1818, by his Catholic Majesty, or by his lawful authorities in the said territories, ceded by his Majesty to the United States, shall be ratified, or (as now understood,) *stand ratified* and *confirmed* to the persons in possession, &c., to the same extent that the same grants would be valid if the territories had remained under the dominion of his Catholic Majesty. By the Treaty of Guadalupe Hidalgo, the right of private property of the former inhabitants is protected, at least as far as the law of nations would have protected it, without any provisions in the treaty. The stipulations of the ninth article, which is the only one applicable to the case of persons occupying the attitude of *the claimant in this case*, has been interpreted to mean a stipulation of maintenance and protection in their *property*, as well *after* the admission of the *State* into the Union, *as before*. The Acts of Congress passed with reference to the lands acquired under those treaties, and which have been the subject of judicial construction in the cases specially referred to in the Act of the 3d of March, 1851, as being one of the governing rules of our decisions, are, *First*—The Act of the 26th of May, 1824, entitled "An Act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims;" by which the courts were opened to decide on claims under the Treaty of Paris of 1803, of a certain class, which *were not perfect*, but which might have been perfected into a complete title under and in conformity to the laws, usages and customs of the Government under which the same originated, had not the sovereignty of the country been transferred to the United States. *Second*—An Act of the 23d May, 1828, extending, with some modifications unnecessary here to mention, the Act of the 26th of May, 1824, over Florida. And *Third*—The Act of June the 17th, 1844, extending over Arkansas, Missouri, Louisiana, and those parts of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers. By the provisions of these laws, any grant, concession, warrant or order of survey legally made, granted or issued, and which might have been perfected into a complete title but for the change of sovereignty, under and in conformity to the laws, usages and customs of the Government under which they originated, could be presented to the United States District Court, &c. The Treaty of Guadalupe Hidalgo and the law of nations must be conceded to impart the same sanctity to *private property* in California as is conferred upon it by the Treaty either of Washington or of Paris. The Act of the 3d of March, 1851, authorizes the presentment before this Board *of any right or title* derived from the Spanish or Mexican Governments. It is necessary, before we are authorized to adopt any decision of the Supreme Court of the United States, relating to the validity of titles, to see to their *applicability.* What is there in the Acts above adverted to, which gives a more enlarged scope of adjudication under them, than is given under the Act of the 3d of March, 1851? The terms any grant, concession, warrant or order of survey, are not more comprehensive, if as much so, as those adopted in this Act under which we are now acting, viz: *any right or title.* If no property of any kind were conferred by the laws, usages and customs in the case of grants, concessions, warrants or orders of survey, neither the treaties nor the law of nations would require them to be regarded; nor does Congress, by her Acts, profess that she would be authorized to maintain and protect any thing less than an *inceptive* or *imperfect right.* Those terms, then, in those different Acts, are of equivalent signification. In xi. Howard, 580, the court say, "The word *title*, in our statutes, on this subject, expressly means equitable rights, short of complete grants and perfect titles. It means equity emphatically." In the Act of 3d of March, 1851, it means that much, beyond all doubt; and not being qualified by the controlling terms which those Acts contain, it means more than mere equity, that is *full* and *perfect titles*, also. The want of applicability of the decisions of the Supreme Court of the United States to the questions arising before this Board, cannot be founded on any difference in the cases arising from the law of nations, the Treaties or the Acts of Congress under which they were made. All these concur in one point, which is, that *all property* of the former inhabitants shall be maintained and protected to the extent that it existed under the former Governments. It is true, as was to be expected in a new field of legislation, that there was in some instances inconsiderate, not to say harsh and oppressive, legislation; but its *general tenor*, whilst it sustained the rights of the nation, has preserved good faith towards the former inhabitants of the acquired country. In the general, there has been a magnanimous liberality extended, both as it regards political privileges and the property of those who were thus about to become adopted children of our great Republic. The condition of the natives of California was one peculiarly calculated to demand not only the *best faith*, *uberrima fides*, but the sympathy and fostering care of the new Government. They were first conquered and then transferred in violation of their feelings, of their prejudices, of their native habitudes, from a Government whose pressure they had never felt; under which, they were at least enjoying the homes of their birth. They were driven into stranger hands, of whose laws, of whose language, and of whose disposition towards them, they were wholly ignorant; trembling with anxiety at their new position, and looking forward with fearful apprehension for further chances and changes in their fortunes. Not unmindful of the obligations of humanity, and of the law of nations, which has ever been respected as the common arbiter by all civilized communities, the course of the Congress of the United States, commencing with the legislation on the subject of the Territory embraced by the cession of the State of Georgia to the United States, in 1802, down to the acquisition of this country, has been marked by a spirit of progressive liberality and relaxation, in favor of the claimants or grantees of land, under their former Governments. This favorable consideration of all bona fide claimants manifests itself by embracing in subsequent Acts, descriptions of claims not recognized by former Acts; by extending the time within which notices of claims, and the production of evidence, were required; by giving authority to the judicial tribunals, and Boards of Commissioners, not only to decide upon such claims, but to revise and confirm such as had been rejected. Nor is this last Act of the 3d of March, 1851, under which we are now setting, an exception to this general rule of liberal legislation. It expressly recognizes in the broadest terms *any right*, OR TITLE, which *terms*, I have shewn, are at least as comprehensive as those used in any former Act. Nothing more could be done than this, except to say that claimants should be confirmed in their *claims* without *any right or title.* To have exercised more liberality on this head would have been what neither the Law of Nations nor the treaty required, and what, justice to the people of the United States at large, would have utterly forbidden. Neither the law of nations, nor the Treaty of Guadalupe Hidalgo, which last is indeed exceedingly meagre on the subject of the property of those who should remain in the country, and become American citizens, can act like alchemy, and convert every thing, even a *permissive* occupancy, into a full, perfect, and complete title in fee simple. Whatever *scintilla* of title there was, under the former Government, is to be protected and maintained. But it is necessary that this right should be made known, and not rest upon the *ipse dixit* of a claimant. Some mode must be adopted to ascertain what is to be protected and maintained; and, to my mind, that which the Act of the 3d of March, 1851, provides is an easy and simple and equal way of ascertaining the existence of *any right or title:* the *ascertainment* of which was of much more pressing importance to the former inhabitants, as every day's experience demonstrates, than to the Government of the United States.

Having taken this cursory view of former treaties and laws, and compared them with that of Guadalupe Hidalgo, and the Act of the 3d of March, 1851, with the view of deciding upon the applicability of the decisions of the Supreme Court of the United States, to the claims before this Board, I will here state, generally, the two great leading principles resulting from those decisions, leaving the *particular points* established in them to be applied to the several propositions or questions, as they may come under consideration in the further view of the case. The first of those great leading principles was announced by the Court, as early as the year 1836, in the case of Smith *vs.* the United States, x. Peters, 330, 331; and is re-affirmed xi. Howard, 88. In the last case the Court say, in reference to this principle, "This was the rule laid down for our Government in 1836, in the case of Smith *vs.* the United States, x. Peters, 330, 331, and which has been uniformly followed since." As the language of the Court introductory of the rule, as well as in laying down the rule itself, varies slightly, I will quote it as it is laid down in both instances. In x. Peters it is thus: "In every case arising under the law, one general question was presented for the consideration of the Court: whether, in the given case, a Court of Equity could, according *to its rules* and the laws of Spain, consider the *conscience* of the *King* to be so affected by his own, or the acts of the lawful authorities of the Province, that he had become a trustee for the claimant, and held the land claimed by an equity upon it, amounting to a severance of so much from his dominion," &c. In xi. Howard, 88, it is laid down in the following words: "By the Act of 1824 we are required to exercise the power of a Court of Equity, and to adjudge in the given case, whether a Court of Equity could, according *to the rules* and laws of Spain, consider the conscience of the King so affected by the acts of his lawful authorities in the Province that he became a trustee for the claimant, and held the land claimed, by an equity upon it amounting to a *severance of so much* from the public domain, before, and at the time, the country was ceded to the United States." The *second general rule* is that which is adopted by the Court in many cases, as in ii. Wheat, 359; iv. Cond. Rept., 681; iii. Peters, 92; xv. Peters, 215, and which, although not in the *least departed from*, may have the supplemental addition contained in xi. Howd., 127. I will give the general rule as laid down in xv. Peters, 225, in the words of the Court. "We apply to the case the laws and ordinances of the Government under which the claim originated; and that rule, which is of universal application in the construction of grants, which is essential to their validity, that the thing granted should be so described as to be *capable of being distinguished* from other things of the same kind, or be capable of being ascertained by *extraneous testimony*." The supplement to which I referred above is furnished in xi. Howard, 127, in which case the concession, being wholly indefinite in itself, needed, if sustained at all, something more to constitute such a severance from the public domain, as is always required. Those additional requisites are said to be *supplied* either by *actual survey* or by *some ascertained limits*, or mode of separation *recognized* by a *competent authority*.

Having stated with as much brevity as was consistent with perspicuity, the grounds upon which the Board is required to act, both as to the *evidence* and to the *law*, in deciding on the validity of the claim, I will now proceed to consider whether, in the view of those principles, the claim of the present claimant is valid or not. It is founded upon a grant bearing date the 1st of April, 1836, signed by Nicolas Gutierrez, as political chief, or governor, at the time, of the Territory of Upper California. There is no question of the *genuineness* of the grant, whatever may be its legal effect; nor of the *fact* that Gutierrez was the political chief, or acting Governor at the time. The evidence on file, from the public archives, proves all those facts, whatever royal decrees of the Spanish Monarchy, of the Spanish Cortes, of the Empire of Mexico, under the domination of Yturbide, under the name and style of Agustin the 1st, or of the Mexican Republic, may have been in force prior to the 18th of August, 1824, *there is no doubt* that at the date of this grant the decree of the Mexican Republic of the last mentioned date, and the ordinance of the 21st of November, 1828, issued by the Federal Executive of the Republic, in pursuance of the 16th article of the said decree of the 18th August, 1824, were in full force; that the grant in this case was made with especial reference to that decree and ordinance; and just as little doubt that it rests on that decree and ordinance for *its only support*. Other decrees concerning the disposition of the public domain, and the settlement or colonization of this country, we know existed prior to the last named decree and ordinance; and so far as they have not been expressly repealed by subsequent legislation, or by necessary implication, from their total incongruity, or conflict with those, they certainly still remained in force. However, this decree and ordinance, as to *rural grants*, like the one now under consideration, cover the whole subject so completely as to leave little else for any prior decrees to operate upon; their chief efficacy consisting in the light which they afford in the construction of *that decree* and *ordinance.*

As constant reference must necessarily be made to the decree and ordinance under which *this* grant was executed, to decide *its* validity, for greater convenience, and out of abundant caution, in view of their having *once been foreign laws*, however they may now be regarded, they have been introduced into the record by the Law Agent of the United States, duly authenticated from the archives in the legal custody of the Surveyor General of California, and constitute a part of the evidence in this case. This decree of the Mexican Congress was a general law, upon the *subject of colonization*, which professed as its chief *end* and *aim* the settlement (cultivation or inhabitancy) of the vast public domain of the nation, by means of grants in full property to her *own citizens, and foreigners*, provided *they* should submit themselves to the laws of the country. The *second* section of that law provides that, "Those lands of the nation are the *object* of this law, which, being neither the property of any individual, nor belonging to any corporation or town, may be colonized." The *third* section declares, "For this purpose the (Congresses) Legislatures of the States shall form, with the greatest dispatch, laws or rules of colonization, within their respective demarcations, conforming themselves, in all respects, to the constitutive act, the general constitution, and the rules established in this law." The *fourth* section is in these words: "The lands comprehended within the twenty leagues bordering upon any foreign nation, or within ten leagues of the sea-coast, (diez sitorales) shall not be colonized without the previous approbation of *the general supreme executive power.*" The *sixteenth* section of the decree is in these words: "The Executive, in conformity with the principles established in this decree, shall proceed to the colonization of the *Territories of the Republic.*" This decree was enacted, as stated above, on the 18th of August, 1824, after the establishment of the Acta Constitutiva de la Federacion, which was on the 31st of January, 1824, and before the establishment of the Constitution Federal de los Estados Unidos Mexicanos, the formation of which, however, was clearly in the mind of the Congress at the passage of this decree. The Executive did not proceed to the colonization of the Territories of the Republic until the 21st of November, 1828, when he promulgated his general rules, or ordinance, for that purpose. Independently of the direction contained in the 16th section of the decree of the 18th of August, 1824, by the 15th article of the *Acta Constitutiva*, he was required to "make decrees, or orders, for the better execution of the constitution and general laws;" and also by the *second article* of the 4th title of the Federal Constitution of the Mexican United States, it was his duty to make ordinances, decrees and rules, for the more exact fulfilment of the Constitution, the Acta Constitutiva, and General Decrees. He prefaces his ordinance of the 21st of November, 1828, with the following preamble: "It being provided in the 16th article of the General Decree of Colonization, of the 18th of August, 1824, that the Executive, in conformity with the principles established in said decree, proceed to the colonization of the *Territories* of the Republic; and it being most proper, in order to give to said *article* the most *adequate* and *exact fulfilment*, to dictate some general rules, that its execution may be expedited in the cases that may be occurring, the E. S. President has thought proper to determine on the following articles." The first article in that ordinance is in the following words: "Authority is given to the political chiefs, that in conformity with the decree of the Supreme Congress of the 18th of August, 1824, and under the conditions herein expressed, they may *grant vacant lands* of their respective territories to empressarios' families, to individual persons, whether *Mericans* or *foreigners*, who wish it, to *cultivate* or *inhabit them*." The last article of this ordinance relates to Missions, and is as follows: "In the Territories in which there are Missions, the lands *which they occupy* cannot be colonized at present, and until it be determined if they ought to be considered as the property of the establishments (reducciones) of Neophytes, Catechumens, and Mexican settlers." To disembarras this case from any consideration of the objection on the score of this last article, I will observe here that the record contains a disclaimer of any right on the part of the Mission; and the proof is, that the land solicited and granted was not *occupied* by the Mission.

This statement of the decree of 18th August, 1824, and ordinance of 21st November, 1828, will suffice to give a general outline of the scheme or plan of granting the Mexican domain, under which the claimant derives his title. As other articles of them may require to be considered in the progress of this opinion, they will be introduced into it.

The first question which presents itself at the very threshold of our enquiry into the validity of the title of the claimant, is that which grows out of the fourth section of the decree of the 18th August, 1824, and will be called, for convenience of expression, the *littoral league question.* The discussion of this question, (on the solution of which depends such vital interests) by the counsel in this case, by the Law Agent of the United States, and by other gentlemen of the bar, who have submitted cases now in our hands for decision, has been marked by that diligence of investigation, legal acumen, and forensic ability, which was demanded by the subject, and fully met in its argument.

Before entering upon the consideration of this first point, I will suggest that it is by no means clear to my mind that the land claimed in this case lies within the ten littoral leagues. There does not appear in the evidence (indeed the contrary is conceded on all hands) that there ever was any line marked out by the Mexican Government, that would indicate the region of country embraced within them. It would be very difficult to ascertain with any precision, but by means of an actual measurement, the tract of such a line along the coast of California; and having been *never in any manner ascertained*, I suppose it will be conceded without controversy that we cannot *judicially know it*, except in those cases where the coast is one of the calls in the grant. The evidence in the cause of the witnesses is such as we might expect, from the nature of the thing, exceedingly unsatisfactory. The Law Agent of the United States relies upon a document accompanying the *espediente*, as found in the archives, being the return of the Ayuntamiento of the City of Monterey, to whom was referred, by the political chief, the question of the fitness of the grant to the petition; which *return* states that the land is within ten littoral leagues. The grant was made by the Governor, *notwithstanding.* But it is very apparent that his *grant* is no evidence that the return *was untrue*, for the *fact when self-evident*, presented no obstacle to a grant, as the evidence shows, particularly the document in evidence from the archives, containing the proposition of Jimeno, and the proceedings had upon it, in the Departmental Junta, in 1840. It may be that the inquisition of the Ayuntamiento of Monterey, may bind the claimant, as *res adjudicata*, though I do not think so. Yet as that impression may be erroneous, and the question has been treated as though it might arise, and has been fully argued, I will proceed to give my opinion upon it.

The solution of this question requires that we should examine narrowly both the decree of the 18th August, 1824, and also the ordinance of 21st November, 1828, which in fact are necessarily connected, the latter merely educing, for practice, all that was involved in the former, which was its only legitimate office. It has been contended by the counsel for the claimant in this case, that whatever else might have been the object or motive of the fourth section of the decree of 1824, it was not intended to embrace a native Mexican citizen, of which class is the claimant now before the Board. In support of this proposition, a general review was made of the course pursued by the former Government of the country, in regard to the discrimination always made in favor of her native citizens, in granting of the public domain, and in the colonization of her provinces. It is very apparent, from this examination, that the policy of the former Governments of the country, in this regard, has been variant at different periods and conjunctions of her affairs—sometimes exhibiting the exclusive rigor of Lacedemonia, in the days of Lycurgus, or of the Celestial Empire, and at others relaxing it so far as almost to abolish all distinctions. There does not seem to me to have been, at least since the independence of Mexico, any such fixed and settled policy in this matter, as to rely upon it with any confidence as a guide in the interpretation of this decree. It is safer to determine her policy from laws enacted at the given time, than to construe her laws by any supposed *general* policy upon the subject. An impression might indeed be taken up from the first section of the decree, that the only object of the bounty of the government was *foreigners*—that they were the chief instruments intended to be used in the colonization of the vacant lands of the Republic. This would be, however, a very erroneous deduction. In looking at the decree itself, I can perceive no distinction between *foreigners* and *Mexican citizens*, except that which is suggested by the ninth section, where, in the distribution of lands, a preference is required to be given to Mexican citizens, which involves, as I think, a distinction in their favor, over the foreigners whose introduction was contemplated.

Whatever doubt may exist as to the intention of the Legislature contained in the *Decree*, it all vanishes when we look at the provisions of the *ordinance*, which is its practical exponent. The first section of the ordinance is a clear and comprehensive and authoritative exposition *of three prominent* and *essential matters*, necessary to the execution of the Decree, whose *adeqate fulfilment* the President had just declared his intention to accomplish. The *first* in his order of announcement is, that the sole and exclusive agent in the function of granting shall be the Political Chief of the Territory. The *second* is, that the subject of his grants are the *vacant lands* of his *Territory;*

and the *third* is, that those grants are to be made to *empressarios*, families, and individual persons, whether Mexicans or foreigners. Whatever was intended to be granted by the Decree, I feel bound to believe, was, with the exception of the preference indicated in the 9th section of it, intended to be granted indifferently to *Mexican citizens* and to *foreigners.*

The next point which I will consider is, whether *the Territories* of *the Republic* were intended to be embraced in the terms of the 4th section of the Decree of 1824. Its application to lands within the prescribed limits situated in *the States* is evident: but that it was intended to embrace those similarly situated in the *Territories*, is not, I must confess, so free from doubt, though such is the inclination of my mind. With regard to the States, without such a proviso, all power to control the matter would have been parted with. But that consideration does not prove that the generality of the terms should be so restricted as to confine them to such lands within the States. This policy of the withdrawal of her people from contact with, and facility of access to, foreign nations, the neglect of which might involve the nation in a general war, by border feuds; and, being so involved, might make her more vulnerable and exposed to maritime incursions along her coasts, would seem to apply as well to the Territories as the States. In speculating upon the policy and *motives* of this provision it *is possible* that there might have entered into it one consideration which was *peculiar to the Territories.* The Congress may have supposed that in devoting *her whole vacant domain*, by this permanent Decree, to *gratuitous distribution*, she might cut off any aid to her fiscal exigencies from the source of her public domain; and may have thought it wise and prudent to submit to her executive head the determination of the economical question, whether the highest interests of the Republic might not be best subserved by withholding *that portion of it* for the purpose *of sale.* But whatever may have operated on the mind of the Mexican Congress, I have come to the conclusion, not, however, with the fullest confidence, that they submitted to the will of their Executive the future subjection of that portion of their country, whether in the *States* or the *Territories*, to the process of colonization.

The next, and, as it occurs to my mind, the most important branch of this question, is, whether the Federal Executive has *exercised the power* with which he was invested by Congress, in that section of the Decree. It is certain that the mode in which he shall give his required approbation is not prescribed by the law; and I am not prepared to say that any mode which he might choose to adopt, however it might differ from my own view of its comparative efficacy, in accomplishing the end designed, would not be competent to him to select. In view, however, of the *mode* in which he was required, both by the Acta Constitutiva and the General Constitution, when carrying out a *general law* of the Republic, I should think that the one which he pursued would be the most natural one for him to adopt on this occasion. I have already had occasion to state that, both by the Acta Constitutiva and by the Federal Constitution, it was his duty to make ordinances, decrees, and rules, for the more exact *fulfilment* of the general laws of the Republic. It seems to me that the Federal Executive might well have executed the trust reposed in him by the Constituent Congress of 1824 by a *general ordinance.* The matter confided to him *was to determine* whether the region of the public domain, contained within the described limits, should be *subjected to colonization.* That determination, which had been doubtless confided to him by Congress from the consideration of his high official station and responsibility to the Republic, could not be, by him, devolved upon another. The power and authority conferred upon him was a *high public trust*, which he could not *delegate.* But in relation to the *process* of *carrying* it into *execution*, by establishing the *details* of colonization, it was his peculiar duty; and it was just as competent to him to do that, in relation to the lands which were *devoted by his will to colonization*, as to perform the same functions in relation to those so designated by the will of Congress, as expressed in their Decree of 1824. The vice in the argument adverse to this consists, as it seems to me, in confounding the *act of the will* of the Federal Executive, by which he could *subject* that *region* to *settlement* with *the means* which he should employ to carry that *will* into execution. The objection to be made of carrying out his purpose of settlement, after that purpose had been formed, is more properly a criticism upon the fitness of the *means* which he adopted than an argument against his *power* to communicate his *will* than a general ordinance. We may, in reviewing the transaction, suppose that the policy which dictated his investiture with that power, would have been better subserved if he had so exercised it *as that every individual*, before he could be permitted to settle within that tract of country, should present himself personally to the Executive, and obtain a *special permission.* But the Executive of Mexico may have thought that all which the public interest required in 1838 could be achieved by a less *onerous* and less *dilatory* process. He may have thought that the public security would be sufficiently guarded in the case of individual Mexicans or foreigners, by the ordeal through which he had required them to pass, from the first presentment of their petition to the Political Chief, to the ultimate *sanction* of the Executive; which *last* he had provided in case of a *reasonable objection* to his *pretension.* He may have thought that in the case of an attempt to introduce, through the medium of empressario stipulations, an excessive proportion of foreigners, the check which he had provided of a personal application to himself, before the issuance of an *irrevocable grant*, would sufficiently protect the interests of the Republic from such an *inordinate influx.* That the Federal Executive, for aught that I can see in the law of 1824, might have acted in that manner—thus subjecting that region to settlement, by the promulgation of *his will*, in a general proclamation—I feel well assured. A much more important question now will demand our consideration, and that is, admitting his *competency* to do so, whether his ordinance of the 21st November, 1828, *contains that expression of his will.* This inquiry we will now proceed to make.

At the threshold of his entrance upon the duty of carrying into execution the general Decree of August, 1824, the Executive declares, in the caption or heading of his ordinance, what it is *he is about to do.* He entitles it " General rules, or an ordinance for the Colonization of the *Territories* of the Republic. This is transmitted to California, and is found among the archives of the Territory. Now, this is significant of one fact, that he proposed to extend the benefit of the Decree to California. And yet it is true, beyond controversy, that the *object* of the Decree could not be effected in this Territory, which was *settlement and cultivation*, to some extent at least, by *families*, except within the *ten littoral leagues.* If this was the case in 1840, as the record verifies by reference to the statement of Jimeno, how much more was it so in 1828. At that time, from the wild and savage nature of the interior, infested by hordes of hostile Indians, it would have been next to impossible to have introduced cultivation, or inhabitancy by families, so far from the free towns, the missionary stations, the settlements already established in the Territory, and from the protecting military Presidios: all, and every one of which, we learn, were within that belt of country which is now supposed to have been withheld from colonization. It seems to me that such could not have been the intention of the Executive. The very *first* article of the ordinance, as well as the *last*, serves to satisfy my mind that he did not intend to exclude it. The *first article* of the ordinance specifies the *object* of the *proposed colonization, to be the "vacant lands" of the Territory, and what they were*, the Decree, which he professes to be putting into activity, had particularly defined, as those *lands of the nation*, which, not being private property, nor *belonging* to any corporation or town, could be settled. The *last article* leads to the same conclusion as to the intention of the President. That article declares that the land *occupied* by the missions should not be colonized. This is a strong negative, pregnant of the affirmative declaration, that such of the lands *as were pertinent*, or *adjacent to the missions, if not actually occupied by them, might be colonized;* and, as we have seen, all such were within the ten leagues. Not the most remote allusion is made from which an inference can be drawn, to countervail the effect of this strong language. If he intended to withhold this section of the country from settlement, which *was known to rest in his exclusive will*, he would not, I would think, have been even *equivocal in his language*, much less have used such as conveys a *contrary* intention. Nor can we suppose that a matter which constituted so material a part of the Decree which he was carrying out, and of the object of his action, would have been forgotten by him: and if not forgotten, how easy and natural to have restrained the general authority to grant, by adding to the words "*vacant lands in your Territories*" the words "except within the littoral and border leagues." He has not distinguished between the vacant lands which are within and those which are without the supposed lines which divide them. He has used no terms indicating any intention to make any such distinction, and the rule of construction in the Spanish law is, "*ubi lex non distinguit, nec nos distinguere debemus.*" I repeat, then, that *vacant lands*, in the ordinance, must be understood, without any words to distinguish them, to signify the *same thing that they do* in the decree, which it purports to carry out; and what they mean in that decree is declared in the second section to be *all those* which are not *private property*, &c. If, however, there be any doubt as to the true meaning of the ordinance, it vanishes when we look to those accompanying facts which are a legitimate ground of interpretation. The strongest evidence is found in the contemporaneous understanding and conduct of all concerned in the execution of the decree and ordinance, of the intention to authorize the settlement to proceed within the littoral leagues. The Political Chiefs and Governors, who were selected and appointed as agents to carry out his ordinance by the Executive; and the Territorial Deputations and Departmental Juntas, who were also to officiate in the execution of his instructions, *with one accord*, have put the same construction upon this ordinance. One Political Chief or Governor might have erred in this matter, through ignorance or from some improper motive; and so of *one body* of the Deputation or the Junta; but that *all should* have done so, through a long series of years, and succession of terms, it is difficult to believe. And the evidence of this construction is heightened to the greatest degree of moral and legal certainty by the acquiescence of the *Executive*, after, we must presume, he had knowledge of this construction of his regulations: and never intimating, so far as we can learn, that there was *any error* in this uniform course of proceeding. His knowledge of all this is a fair presumption in law, from the requirement of quarterly returns to be made to him, of *all the grants* that were made, and the *facts relating to them*. It is not often that we find such a body of contemporaneous exposition of a doubtful law. To countervail this construction of the ordinance of 1828, as deduced from the contemporaneous and continued acts of the officers of the Government in the Territory, to whom its execution was especially confided by the Federal Executive; and, indeed, to establish by the same kind of evidence the opposite construction, the Law Agent of the United States has introduced from the archives a record of proceedings had before the Departmental Junta, on the 18th of April, 1840, consisting of a proposition submitted to that body: a report of a committee upon it, and their adoption of that report. The object of the proceedings seems to be to procure the confirmation by the General Government, of the grants of land within the ten leagues, and of mission property, made by the Political Chiefs, and approved by the successive Deputations and Juntas down to that time, under the law of 18th of August, 1824, and the ordinance of 1828. This whole proceeding conduces to prove that there was in the minds of that body, at that time, to say the least of it, great *doubt* and *anxiety* on this subject. It is fair to presume that such was the state of their minds at the time, as there is no ground to believe that any thing but honest apprehensions of the insecurity of the land titles of the Territory induced their action. But at the same time that it discloses this doubt and feeling of insecurity, it also supplies other facts which *outweigh*, as evidence of the construction of the decree and ordinance, the *proceedings themselves*. They furnish full proof of the facts that the Political Chiefs, from the commencement of their action under that decree, and ordinance in 1834, down to that time, had granted lands by *definitive* titles within the littoral leagues, and that Territorial Deputations and Departmental Juntas *had approved* of such during the whole of the same period. It proves further, that there were *no vacant lands*, except such as were so *situated*, which could have been colonized; because the said record declares "it is all littoral, and the greatest part thereof is acknowledged as belonging to the *Missions*." Now, the repeated acts of the Political Chiefs, or Governors, and of the Deputations and Juntas, in the execution of their duty under this decree and ordinance, in the *scale of evidence*, greatly *preponderates* this *single act* of that body: even if their resolutions and preamble had contained the express averment that they did not consider the decree and ordinance as furnishing any authority to make the grants alluded to. But I do not understand them as expressly declaring that belief, but they are rather argumentative and deprecatory of the evils of such construction. Furthermore, if what is produced as the answer of the General Government to their resolutions, is, in fact, a response to them, (which, however, I can hardly consider as having any connection with them,) it proves one of two things, either that the Executive of Mexico did not perceive any reason for the apprehensions of the Departmental Juntas, or that they were supremely indifferent to the feelings and prosperity of the people of California, and the latter we are not justified in imputing to them.

The views and considerations above suggested, relate to the construction proper to be placed upon the decree and ordinance, by virtue of which this grant was made. If I should be wrong in the conclusion to which my mind has arrived, that the decree and ordinance ought now to receive the construction which was put upon them at the time, by all concerned in the subject to which they related, and which was acquiesced in so long by the former Government. It is then worthy of consideration, whether, *first*, that approbation of the Federal Executive may not be presumed to have been given: and *secondly*, whether, even if there were no such approbation or previous consent, either in fact or in presumption of law, the principles of equity, under all the circumstances of this case, do not require that the claim should now be confirmed. As the first of these propositions is founded upon the supposition that the Executive of Mexico could by a *less public*, but *equally competent* and *effectual* mode of communication, have imparted the authority to the Political Chief, that is, by *private instructions*, which the Political Chief was not bound to expose, it may not be amiss to bestow some further reflection upon his competency to communicate his consent *in that manner.* In the argument of the Law Agent of the United States, the total invalidity of any private instructions is asserted, and the position assumed that even *a public antecedent proclamation* by the Federal Executive would not suffice ; but that there must be a *direct application* for that *consent*, in every *particular* instance of *grant.* To sustain this doctrine, we were referred to the decisions of the Supreme Court of the State of Texas, in the third volume of the Reports of that State. From the fact that the State of Texas composed a part of the Republic of Mexico, and that her judicial tribunals have had their minds necessarily turned to the questions arising out of the decree of the 18th of August, 1824, much consideration is due to their judicial decision upon that subject. At the time of the enactment of that decree, Coahuila and Texas together formed a State of that Republic. In obedience to the 3d section of that decree, that State proceeded to the enactment of a law on the 21st of March, 1852, providing for colonization within her demarcation. By the 7th article of that law she provided that no settlements should be made within the twenty border leagues, nor within the ten littoral, on the Gulf of Mexico, except they be such as were previously approved by the Federal Executive of Mexico. And " for that purpose all future petitions on the subject, whether made by Mexicans or foreigners, shall be passed to the Supreme Government, accompanied with a corresponding *report.*" In the year 1827, that State, by explicit instructions to her *Commissioners of Colonization*, forbade them to give possession to any colonist proposing to establish himself within the twenty border or ten littoral leagues, unless he shall present him with a special order from the State Government, wherein the approbation thereof of *the National Government shall be manifested.* The result of this State legislation is a palpable requirement that the grantee in each case *must produce a document containing the previous approbation* of the Federal Executive. In that State, beyond all doubt, every grant would be void where the *consent* was not obtained as the law directed it, and could not be recognized unless proved by the *evidence* which the *law* required. There the consent must be *special* in *every case*, and no *presumption* of that consent could be indulged, to supply what the *law had required* to be *procured* and *exhibited.* The judiciary could not dispense with those positive legal requirements, and hence the decisions in the Supreme Court of Texas upon those two points, viz: the *special* application of the Federal

Executive in case of a grant; and upon the *doctrine* of *presumption* of that *assent* by the Executive of Mexico. There was no special action required of the Federal Executive with regard to colonization in the States, as there was in regard to the Territories by the 16th section of the decree. The course to be pursued by the States was to be one of *their own adoption.* The Federal Executive could prescribe *no rules* for the *States* as to the *mode of carrying out that decree.* The State of Coahuila and Texas adopted the mode of obtaining the approbation of the Federal Executive to colonization within the leagues, by *special application in every* instance. If Coahuila and Texas, instead of prescribing *that mode* of *proceeding*, had, by a resolution of her Legislature, requested the Executive of Mexico to give his approbation to the settlement of that portion of the State contained within the border and littoral leagues, in the same manner that she should adopt for the colonization of the residue of her demarcation, I cannot doubt but that it would have been *entirely competent* to the Executive to have complied with the request, whether she did so or not; and that a general ordinance, if she had complied, would have been all sufficient to have given the authority, in the meaning of the fourth section of the Decree of 1824. I presume it will be admitted that the *National Legislature* could have at any time repealed the fourth section of the Decree of 1824. If she *had* done so, and instead of subjecting the colonization of that portion of the country to the *will of the Executive*, she had provided that it should not be colonized without *the previous consent of that department of the Government*, I presume that then it would be doubtless competent to Congress, by *her general resolution* to that effect, to have given such approbation. It seems to me that Congress, by transferring their power in the matter to the Executive, without any restriction upon him as to the manner of exercising it, gave him the right to exercise his best judgment as to the whole subject. Coahuila and Texas never applied for any *general authority* or approbation, but adopted the course which to her seemed best. The question never arose in that State whether such mode of giving the previous approbation of the Federal Executive was within the meaning of the Decree of 1824. Nor are the decisions of that court applicable to the question upon which I will presently enter, of the presumption of the previous approbation of the Federal Executive. No presumption could be indulged of any *assent in Texas*, because it was expressly provided by her statute that the evidence of that approbation should accompany the *petition* of the colonist before he could obtain any right whatever. And one of the grounds upon which the presumption rests, if it can be indulged at all, did not exist in Texas: because the *relation* between the Federal Executive of Mexico and the authority of the State of Coahuila and Texas is by no means identical with that which exists between that Executive and the Political Chief of a *Territory* to whom that Executive has confided the general trust as his, and the agent of the Government to convey or grant vacant lands lying within it.

It must be conceded that the Decree of 1824 required the *previous approbation* of the Federal Executive to colonization within the border and littoral leagues. It is equally true that the officer of a Government cannot alienate the public domain of that Government without its authority. The question now to be considered is, admitting that such *authority must exist*, whether or not its existence in this instance may not be *presumed.* There cannot be any presumption indulged of the existence of an authority in a public officer to dispose of the public domain, where the public law regulates not only the *manner of conducting the procedure*, but also the *authority* and power of the officer. The case must be brought within the influence of the doctrine laid down by the Supreme Court of the United States in the cases of Arredondo, Clarke, Perchmon and others, all of which recognized the same principle. Those cases rest mainly upon the power of the King of Spain *to grant* the *public domain as may suit his royal will;* and upon the presumption that those officers, through whose agency he *acts* in that matter, will, from their *dependence* upon his favor and the *fear* of punishment, not venture without authority to encroach upon the royal perogative. The whole doctrine is expressed in the following words, taken from the decisions above referred to: "A *grant* made by a Governor, if authorized to grant lands in his province, is *prima facie* evidence that his power was not exceeded. The connexion between the Crown and the Governor justifies the presumption that he acts according to his orders; should he disobey them, his hopes are blasted and he exposes himself to punishment. His orders are known to himself and those from whom they proceed, but may not be known to the world." And further—"He who would controvert a grant executed by the *lawful authority* with all the solemnities required by law, takes upon himself the burthen of showing that the officer has transcended the powers conferred upon him, or that the transaction is tainted with fraud." There concurs in the relation between the Federal Executive of Mexico and the Political Chief of a Territory, and that between the King of Spain and his Governor of a Province, many points of resemblance, so far as this particular matter is concerned, though they are not alike in all respects. The point in which they differ most is, perhaps, not the one upon which the doctrine was mainly founded by the Supreme Court; and that is, the utter dependence of the Governor, for all his prospects in life, to the favor of the Government. The facts are common to them both. That during the existence of the decree of 1824, the disposition of the land granted depended upon the *sole will* of the Federal Executive, which was as *free* to act as *that* of the King, on any of his royal domain. That the Political Chief of a Territory had the same *general authority*, and was the only officer (who did have it) to grant lands, that existed in the Governor of a King's Province. That there was the same unrestrained mode of communication, of the will of the Federal Executive, as to the disposition of this land in question, to the Political Chief, as existed between the King and his Governor. And it may be that the power of appointment, or of removal from office of the Political Chief by the Federal Executive, was unrestrained by the Mexican Constitution or practice under it. This power seems to be extensive enough to have formed a strong motive to obey his orders and decrees. The 20th article of the 4th section of the Constitution confers a sufficiency of power, to assimilate the relation perhaps nearly enough, to authorize the application of the doctrine of presumption, so far as it rests on that ground. The power conferred upon the Federal Executive to carry out the decree of the 18th of August, 1824, by the 16th section thereof, and his general power, under the Constitution, to make ordinances, decrees and rules, for the better fulfillment of the general laws of the Republic, his special unlimited power to subject the land within the border and littoral leagues, to settlement by his will; with no law to regulate and prescribe the manner of communicating *that will*, or determination of it, to the agent that he might appoint and did appoint, viz. the *Political* Chief of the Territory; and his *power* over that officer who had the sole granting power of the vacant lands of the Territory, in case of a departure from his orders as given in the Constitution cited above:—all strongly incline my mind to the conclusion that in the case of a grant made by him, the presumption might well be indulged that *he was authorized* to make it. As it is not necessary, however, in my view of the case, to decide positively upon that question, I decline to do so. This conducts me, in the course of inquiry which I proposed, to the consideration of the last matter connected with this question of the littoral leagues ; and that is, whether, in view of all the matters of fact and of the Mexican law connected with it, as presented by the record, it would be consistent with the principles of equity to refuse a confirmation of this grant, because of locality in reference to the coast.

The nature of the transaction between the person soliciting land and the Government, is, in effect, as has been frequently said by the Supreme Court of the United States, a contract; the consideration being, in the case now before us, the abandonment of his former home, or residence, and the cultivation and inhabiting of the land for which he petitions. And whether, according to strict definition in our law, it be a technical contract or not; yet after the labor and toil bestowed upon it, and the long and continued residence, preventing necessarily the occupation, and, it may be, the opportunity of acquiring any other home, the doctrines governing contracts may be very appropriately applied. Viewing the claimant in this light, it seems to me, that he may, in this case, invoke to his aid the principles of equity. He desires to avail himself of the laws of his country to procure a home. He reads that law, and sees clearly laid down the terms and conditions upon which his Government will grant it. That law contains a provision that as to a portion of her public domain, although it is not in all events, and absolutely withdrawn from settlement, yet it can only be devoted to that object by the previous consent or approbation of the Federal Executive of the Republic. He reads that the Federal Executive is required to carry out that law into practical effect. He is a native, perhaps, of California; born in the only inhabitable part of the Territory. After the passage of the decree of 1824, he waits with patience for the necessary ordinance or regulations of the Executive. At the end of about four years that ordinance is promulgated. He learns from that who is the officer appointed to grant the vacant lands of the Territory. He sees distinctly declared what he is required to do to obtain a portion of that vacant land. With an honest purpose of mind to comply with all that he is required to perform on his part, he approaches the Political Chief of the Territory and submits his application. Among other things to be considered by the law is the relative position of the land which he solicits to the coast of the Pacific. The land which he solicits is in that section of the country which alone has been redeemed from the savages and capable of being used as the law requires. He knows that the land is grantable, if the Federal Executive shall have willed it to be so. The Political Chief, with all this before him, and with information that the land is within the ten littoral leagues, proceeds to make the grant. Is not the grant by the Political Chief made under such circumstances, in effect and affirmative response to the question, "Has the approbation of the Federal Executive been given to the granting of this land?" That question is asked by the petition, and is answered by the grant. I can not think that this claimant is chargeable with any violation of the law. He must be considered, in this case, to have acted with good faith at least. The written laws and published ordinances of the Government, he may be held bound to know, though the presumption is so far short of the fact, *in this particular*, that both law and equity allow an apology sometimes to be urged for not having made their acquaintance. However, in this case there was no violation of any written or published law, so far as I can perceive. The whole law seems to have been known to him so far as it was accessible .to any one. The law of 1824, and the ordinance of 1828, he was bound to know; but there was a *fact*, that is the authority of the Political Chief, to grant this land which he had no earthly means of knowing, except from the source to which it would be properly communicated, if it existed. He relies upon that information, takes his grant and proceeds, as the ordinance directs him, to the possession of the land. He hears no more about the matter of the littoral leagues. The Government that granted it to him never molested him. Nor do I think that she would ever have done so. She was fully advised of this mistake of her officer, if it was one, I suppose within six months after it occurred, as there is a requirement for a special report of the matter every three months, after it transpired. The knowledge of the fact, we may suppose, was at any rate communicated by the Departmental Junta of California in 1840. I can not think that, in good conscience, the Government of Mexico would, after so many years, have driven him from his home, for the want of the previous approbation of the Federal Executive. I feel authorized, in the language of the rule laid down by the Supreme Court of the United States, in the case above cited in this opinion—to consider that the conscience of the former Government ought to be so affected by this conduct of herself and her officers, as to hold the land (if she held it at all) as a trustee for the claimant. This rule, by which the Supreme Court touched *the conscience* of the King, was established under laws which furnished rather a dimmer light, by which to hunt for it, than is given to us by the Act of the 3d of March, 1851. The old and familiar lamp of the *Principles of Equity* is not held out, as it were, to *one side*, for us to see by, but is put into our hands to guide and to govern us in the decision of those cases.

Having thus disposed of the littoral league question, and come to the conclusion that a confirmation ought not to be refused on that ground, I will pursue my inquiry into other matters affecting the validity of this claim. If all the objections that have been considered be insufficient to prevent such confirmation, yet, if according to the publicly promulgated law and ordinance, prescribing the plan and scheme of disposing of the public domain of the Republic of Mexico, no right or title of any kind, ever vested in the claimant, then there is no ground for the application, of any equitable considerations, such as the Supreme Court of the United States have applied to the cases of imperfect titles, under the former laws of Congress which have been referred to; nor any ground upon which this Board, upon any of the principles or grounds of decision enumerated in the 11th section of the Act of the 3d of March, 1851, can confirm this claim. The Law Agent of the United States contends that such is the condition of this claim when brought to that test. This makes it proper and necessary to proceed to the application of the claim, to the ordinance of November, 1828. The argument is, that by the just construction of the ordinance there was necessary to the existence of any right, or title whatever, in the petitioner, a previous consent of the Territorial Deputation; and that as there is no evidence introduced in the case of any such previous consent, that there is no ground upon which the claim can be confirmed. The same process of reasoning may be pursued in the consideration of this question, as was adopted in regard to the construction of the decree of 1824, as to the requirement of the previous approbation of the Federal Executive to the colonization of the lands within the littoral league. That is, we should endeavor first to arrive at the meaning of the ordinance, by the provisions themselves which it contains, and if they are doubtful then we may recur to the usage and practice which was adopted and pursued by all the officers of the government, who were charged with the execution of the ordinance. In such case it is the well settled maxim of the Spanish law, "Optima legum interpretes est consuetudo." And to this may be added as of great force in the construction, that the Government whose ordinance it was, was fully informed that such was the construction and practice of her officers in its execution; and that no objection was made, or correction ever attempted, of the supposed error. The proof in this cause is abundant, that the universal course of practice by all the Political Chiefs, who ever granted lands in California, to execute complete grants, or titles to the petitioners and to deliver them to the party before the submission to the Territorial Deputations, or Departmental Juntas, for their approval; and if there are any exceptions to this rule they are so rare as that they only serve to prove the general rule. It is also as fully proved in this case that the Government was well informed of this course of practice, by all her officers or Political Chiefs. My own impression is, that this practice was in conformity with the provisions of the ordinance in this respect. But there can not be any doubt, I think, that whether the ordinance contemplated the execution of the full title, by the Political Chief or not, before he was required to obtain their approbation, or rather submit it to them for their consentimiento, there was to be in existence a right or title, though an imperfect one, before the submission of the matter to that body; which last would be sufficient to authorize a confirmation according to the act of 3d March, 1851; if it were valid, according to the tests to be applied to it by that law. In considering this question of the approval of the Territorial Deputation or Departmental Junta, it must always be borne in mind, that the whole undivided power and authority, to make grants, was vested by the ordinance in the Political Chief. There is no participation with him in that exercise of power in any body else. "The Political Chiefs of the Territories are authorized to grant," &c. All the pre-requisites to the exercise of that function by him, are enumerated in the 3d article of the ordinance. Immediately after the presentation of the petition, as required in the 2d article, "He shall proceed directly to obtain the necessary information, whether there is in the petition the requirements demanded by the law of the 18th of August, 1824, both as respects the petitioner, and the land which he solicits, and for that he may rely upon his own judgment, and act upon it alone; or, if he prefer to do so, he may consult, at the same time with the respective municipal authorities, as to whether there be any objection to the grant. The next article is: "That in view of the whole the Political Chief will *accede* or not to the *prayer* of the petitioner, conforming his conduct exactly to the laws applicable to the matter, and especially to the above named of the 18th August, 1824." Then follows the section which most particularly refers to the point under consideration. It reads thus—"The grants made to private individuals, or to families, shall not be held as definitively binding (or valid) without the previous consent of the Territorial Deputation, to which, and there shall be passed to it, the respective expedientes."

As we have seen, that no share of the function of granting is devolved by the Ordinance upon the Deputation, their consent must necessarily be to what *has been done in that particular*. That he should have done something, in the contemplation of this section, towards a grant, must necessarily be conceded, even though it should not have amounted to the execution of the perfect title. That he should have acceded to the petition which was for a grant of the land sought, is expressly required, and that there was at least *a concession* to that extent, is a necessary deduction. To limit the word concession to that point in his action, would result in the same end, for there would then be an inceptive title, whose effect would only be *qualified* but not defeated by their refusal; and that qualification was only to retain it in the condition it then was until the final action of the Federal Executive. To say that what the Political Chief had done should not be *definitively valid* without the approbation of the deputation, is the admission of a *validity*, though it may be short of irrevocability; and in that construction there would be an imperfect right or title, which, if never destroyed, under the former Government, might now, if in all other respects unexceptionable, be the subject of confirmation by this Board. But my impression is, that after the necessary qualities were ascertained, by the granting power, to exist in the land sought, and the petitioner, that he might under the ordinance proceed to the making, signing and delivery of the title. The 8th article proceeds:—"The concession which is asked for, being *definitively made*, there shall be executed a document, signed by the Political Chief, which shall serve as a title to the party, expressing in it that it shall be understood to be in conformity with the provisions of the laws, in virtue of which he may proceed to the possession." This definitive action of the Political Chief, in consummation of the title, refers to the initiatory steps which, by the preceding or 3d article, he had been required to take in the same matter; and does not, as I think, by any fair construction refer to any thing else. That concession, which is the only document he is ever supposed or required to make, was the same which was not to be *held definitively valid* without the previous consent of the Territorial deputation. All the force must be given to the provision requiring the previous consent of the deputation which the ordinance imparts to it. If prior to that consent there was no right or title conferred by the Political Chief, his act afterwards would be merely a ministerial duty; the whole purpose of the ordinance would be reversed, and the granting power would in effect devolve on the Territorial deputation. But by the construction of the ordinance, which it seems has always been adopted, the effect of the consent was to place the concession or grant beyond the *supervisal* of the *Federal Executive*, and its *refusal to consent* was not to annul the grant, but to cause its submission to the action of the Federal Executive, which might result or not in its annihilation.

The consent of the deputation did not alter the nature and character of the grant, nor could their refusal destroy it. It remained as the granting power had made it. Now every object, which, it seems to me was intended to be accomplished by the submission of the matter to the deputation, has been accomplished by the course pursued by the Political Chief in this case. He has made the definitive title expressing in its body that it is made subject to the action of the Territorial deputation as prescribed by the ordinance. The only question here is whether the failure of the Political Chief to obtain the consent of the deputation, is now to be held as destructive of the force and effect of a *perfect grant* made *subject to it*. That this grant, prior to the submission of the matter to the deputation, was a perfect and complete grant of the fee, there is no doubt. It conforms exactly with the model of a complete grant under the Spanish law, as furnished by the Supreme Court of the United States in the case of Menard's heirs *vs.* Massey, reported in viii. Howard, 314. The insertion of conditions are common to them both. It often occurs that conditions subsequent are imposed, by the terms of the contract, between the parties; but they are entirely consistent, with a full investiture, of the granting of the entire estate in fee. In one sense of the word, those conveyances are not *definitively valid*, that is they carry upon their face and bear about them the means by which they may be destroyed. That an estate in fee simple may be granted on conditions: see Greenleaf's Cruize, i. vol., 59. And further, a condition in deed may be annexed to every species of estate and interest in real property; to an estate in fee, entail, for life, or years, in any lands or tenements ib. Title 13 Estates on Cond. chap. 13, page 2. The right of the claimant must be tested by this grant as it is. I do not think it was made by the Political Chief prematurely, in order of time. Whether made prematurely or not, is a question of the construction of the ordinance; and I think that the construction which has has been put upon it is right; and furthermore, that if it be not right, the consequences must be borne by the grantor, the Government, and not by the grantee. The grant is not void, but must stand as it is, although in contemplation of the ordinance, the full and complete title was not intended to be made until after the action of the Territorial deputation. More especially should it be so held, after the long usage of that mode of granting, under the ordinance, with the knowledge of the Federal Government, as we are bound to presume from the evidence on the record in this case. The fact of the authority, and the sole authority, of making grants being vested in the Political Chiefs, once established, no grant executed by him can be held void for the irregularity in the manner of executing that trust, though it may result in making the consent of the Territorial deputation a quasi condition subsequent instead of a condition precedent to the grant. Here was an authority in the grantor to grant, and to grant the very lands; or, in other words, the lands were grantable, and he fully authorized to grant them; but he has misapprehended, honestly, (if at all,) the course to be pursued in carrying out his conceded power, in the point whether he could not proceed to make the grant, after ascertaining the matters entitling the petitioner to it, and then submit it to the deputation: or, submit it first to the deputation and then execute the grant. The Political Chief has not usurped any authority conferred on the deputation by his course. He expressly subjects his action to their approbation. It is a case, at most, of irregularity in carrying out an *ordinance* prescribing his duty; and a grant thus made ought not to be avoided, for a departure from its directory injunctions, even in a case where the consequences resulting from the departure would be much more serious and important than the *total* neglect, under the decree of 1824, to have submitted his action at all to the review of the Territorial deputation. The Supreme Court of the United States, in v. Wheat., 239, lay down a rule which I think applicable to this case. They say that as to irregularities committed by officers of the Government prior to the grant, they do not doubt but that the Government and not the individual must bear the consequences. And in xi. Wheat., 380, they say,—"It would be extremely unreasonable to void a grant for irregularities in the conduct of those who are appointed by the Government to supervise the progressive course of a title from its commencement to its consummation in a patent." My opinion is, that this is a perfect title, subject only to the effect declared in the ordinance, as consequent upon the failure of the Political Chief to obtain the consent of the Territorial deputation, and to the conditions which are lawfully annexed to the grant. The grant being definitively made and delivered to the claimant as the decree contemplated it should be, he had nothing to do further than to perform those conditions lawfully attached to his grant, and which were to be performed by *him*. If the grant was not *annulled* by some action to be had upon it, according to the ordinance by others than himself, it remained as it was when delivered to him, a perfect and complete title. No such action did take place during the existence of the former Government. The consequence of the failure of the Governor to obtain the approbation or consent of the deputation we have seen, did not *annul* the grant, but was only to be followed by a reference of the matter to the Federal Executive. No such reference was ever made, nor indeed was there ever any final action upon it, by the deputation. There was no time limited for their action, and we have no doubt that they would finally have approved of it, as the only objection made to the adoption of a report by their committee, of entire approval, was an evident error in the *form* of that *report*. I can see no reason why the Territorial deputation should not have approved of the claimant's grant. I believe it is *substantially* approved, and as its neglect was no fault of the claimant's, I do not think we ought, in equity and good conscience, to refuse him a confirmation of his title.

Having considered thus far the grounds of objection or difficulties which presented themselves to a confirmation of this title, and not having seen any fatal defects, we will proceed to examine, if any objections affecting its validity can be predicated of the non-performance of any of the conditions attached to it.

I will remark here, that as to several of these conditions I do not find any authority for this imposition in the decree of 1824, nor in the ordinance of 1828. But as the Political Chief is required in the ordinance to conform to the laws regulating the matter, as well as to the decree of the 18th of August, 1824, and the ordinance of 1828, I am not prepared to say that they are imposed without authority. The presumption is, that he did conform to the laws. The conditions not to obstruct the highways, crossings and right of way, and to build a house and live in it, within a year, and to pent in the limits of his land, besides the land marks, some fruit trees or forest trees of some utility, seem to have been taken from the regulations of Don Felipe de Neve, dated in June, 1779, and approved by his Catholic Majesty in a royal order of the 24th of October, 1781. In the 9th section of those regulations, we find it provided that the new colonist shall be free, and exempt from paying tithes or any other tax on the fruits and produce of the lands and cattle given to them, provided that within a year from the day on which the house lots and parcels of lands be designated to them, they build a house in the best way they can and live therein; open the necessary trenches for watering their land, placing at their boundaries, *instead* of land marks, some fruit trees or wild ones, of some utility, at the rate of ten to each suerto of land. App. No. 2, of Capt. Halleck's report Len. Doc. No. 17, page 136. If this was the law, by authority of which these conditions were inserted in this grant, however suitable to urban grants, they seem to me to be out of place in the large rural grant to this claimant; and instead of the comparatively mild penalty of paying tithes and taxes if he failed, the most disproportionate penalty of losing his whole land, is affixed in this grant; which, however, we may safely conclude would never have been enforced by his Government. Without questioning any further the power of the Political Chief to insert the conditions which he has put in the grant, I will proceed to the more important considerations of the questions which arise out of this feature of the case. The conditions annexed to the grant are numbered to the extent of five, though the last so numbered is not in fact a condition, but a *clause of forfeiture*, declaring, "should he (the grantee) violate these conditions, he shall lose his right to the land, and it may be denounced by another." I have no doubt that the conditions in this grant, under any interpretation which the ordinance of 1828, or the decree of 1824 can bear, are all subsequent conditions, for it cannot be supposed that the execution and delivery of the definitive title spoken of in the 8th article of the ordinance, was to be longer delayed than the consent of the deputation; and besides, the conditions are of matters in their nature subsequent to that time. It will be observed that some of the conditions are negative in their character, and some active or positive, and one of them at least, a mere recital or descriptive allegation of what was already *done*, which is not strictly a condition, as that must necessarily relate to the future. Of those which are affirmative and active, some are to be performed by the *grantee himself*, and others by an officer of the Government, at his instance.

With regard to any failure or imperfection in the performance of any of them, which the grantee is not required to perform, he ought not, whatever else he may suffer from that failure or imperfection, to be *subjected*, on account *thereof*, to the forfeiture prescribed in the penal clause. It could only be by a revisal of the lenient rule applicable to the construction of penal clauses, that he could be visited with the defaults of a public officer, whose action the Government had required him to solicit. The penal clause is, " If *he* shall violate these conditions, he shall lose his right," &c. Surely, he will not be held to the penalty for the violation of conditions which he was not required to perform, and the execution of which he could not control. So far as there appears to be any violation of the conditions which the grantee was to perform, I have no doubt that the failure is of a nature and character which ought not to be visited with the penalty of the loss of *his title*. The only neglect or violation of a matter material to the grant, relates to the *time* of building the house and living in it. The *actual occupation*, the judicial possession and measurement, the building of the house, and his residence in it, all took place many years before the acquisition of the country by the United States, and to inflict the penalty now, for the difference *of time* between their requirement and actual performance, would seem to me to be entirely too disproportionate and vindictive to be sanctioned by the laws of Mexico, or by the principles of equity. The imperfect manner of executing or departure from the laws and ordinances regulating the discharge of the duty of measuring this land, which by the condition of the grant he was required to procure to be performed, is according to my view of the penal clause, no ground for inflicting its force upon the grantee, and will not be considered by me, except in connection with another objection, which is that to the validity of the claim, for want of a sufficient segregation of the land, from the remainder of the vacant lands of Mexico. This view of the question as to the effect of the conditions in this *grant* upon its validity, taken in connection with the proof in the record, might suffice perhaps upon this branch of the case; but there are other views which I feel called upon to take of this matter, of the subsequent conditions in the grant. This grant in its construction, as to its character, and as to the effect of the breach of the conditions annexed to it, is to be tested by the law of Mexico. We have already seen that it was, in its form and structure, a complete conveyance of the fee simple title. We are now to consider what is the effect under the Mexican law, upon the rights of the party, of a breach of the conditions which are annexed to it. The entire fee being vested in the grantee, the first question which arises is, whether upon a failure or breach of an annexed condition, that *vested title* was thereupon *ipso facto* divested out of the grantee, and revested in the Government, without anything done on the part of the Government to manifest her will to take advantage of the forfeiture. This is a very essential consideration, for if the land, in this grant, did not *revest* in the former Government, but required some action or procedure of some kind to produce that result, which proceeding was never had, under the former Government, the United States did not require the *land*, under the Treaty of Guadalupe Hidalgo, but at most a mere *naked right* to enforce a forfeiture which belonged to the former Government. The distinction must never be lost sight of in considering this question between conditions which were to be performed, before the perfect right, by a grant of the fee, was to be vested in the party, being what we term, in our law, conditions precedent—which, not being performed, would leave the fee in the former Government, and thus, under the treaty, would devolve upon the United States to be dealt with as she might direct: *and those conditions*, which, according to our nomenclature, are called conditions *subsequent*, which attach to a complete grant of the fee, and have such effect, if violated, as the law of Mexico prescribes. I will advert, for a moment, to the view of this subject as it is regarded in those Governments with whose principles we are more familiar than we are with those of Mexico, and by which the Government of the United States, both in its legislative and judicial departments, has always manifested a strong inclination to be governed when adjusting questions of private right between herself and her own citizens. The rule in this country upon the subject is laid down with so much brevity, and yet with such comprehensiveness, in a note to the Text of Cruise on Real Property, as edited by Mr. Greenleaf, that I will quote it at large:—"A condition is something inserted for the benefit of the grantor, giving him the power on default of performance, to destroy the estate, *if he will*, and revest it in himself or his heirs. As the law does not presume forfeitures, it requires some *express act* of the grantor as evidence of the intention to relaim the estate, viz: an entry"—i. Greenleaf Cruise, page 46, of Tit. 8. The doctrine of the English Common Law on this subject, except when varied by special legislation, is adopted generally in this country. That doctrine, even in grants by the Crown of England, is thus laid down by Cruise, *ib.* 40:—"In all cases where the Crown is entitled to land upon the breach of a condition, an office, countervails an entry." Citing Plowd. 243. The People *vs.* Brown, iv. Caines, 416, 426." In the State of Tennessee, which had a large portion of public lands for distribution, the doctrine with regard to grants by the State is, that even a grant which is *void* for fraud, must be adjudged so by some process of law before the State can reclaim it:—iv. Cond., U. S. Repts., 657. And that a grant by breach of conditions subsequent is *not void*, but only voidable. U. S. Dig., vol. i., 472; i. Preston's Ten. Repts., 370. I will now advert to the doctrines of the Civil Law upon that subject, which correspond in a remarkable degree with those of our Equity. I am of opinion that the doctrines which are applicable in this particular to private grants or conveyances, ought to be equally so to public grants; and that when brought before a judicial tribunal, where the nature of the grant is the same, and more especially where its features are identical, the same rules of decision should apply. There are rules which are peculiar in their application to grants by a Sovereign, which are not involved in the consideration of the force and effect of these conditions. Such, for example, as that in grants by a Sovereign, nothing should be taken by *implication;* and that in their construction they shall be taken most strongly for the sovereign: whereas, in private grants the rule is that they shall be taken most strongly against the grantor, and in favor of the grantee. But where the question is not one as to the meaning and intent, but as to the effect of unambiguous stipulations, such as conditions where signification is apparent, the same rules should govern, no matter who are the parties. The Supreme Court of the United States have held, in an opinion delivered by Judge Marshall, that the King of Spain was bound by the fundamental laws of his kingdom. It is needless to remark that the Republic of Mexico is governed by the same municipal laws which prevailed before her independence, except so far as they are not inconsistent with their present form of Government and have not been changed by her own decrees. In the Nartidas I find the doctrine asserted, without qualification, that the King is bound by the laws of the Kingdom, although he made them, just as a subject is bound by them, i. Part, Tit, i., Law 14. So also in Novisa., Recop., vol. i., Tit. 2, Lib. 3, it is declared that the laws must be kept, as well by the King as the people. Those doctrines of the Civil Law to which I shall make reference, are as follows: "Clauses of nullity and penal clauses are not always executed to the rigor; and covenants are not dissolved nor penalties incurred in the very moment which the condition bears; even although it should be agreed on that the contract should be void, by the bare deed, and without any ministerial act of justice. But these sorts of claims have their effect regulated by the discretion of the Judge, according to the nature of the covenants and the circumstances, i. Stras. Domat, page 185, Art. 222." If the condition depend either wholly or in part on the act of one of the contractors, and has not satisfied it within the time, it is understood that in the cases where it would be equitable to grant delay, it ought to be granted according to the circumstances; as where the delay has occasioned no damage, or if there is any, where it may be repaired, *ib.* page 184, Art. 218. In all covenants in which one of the covenanters is obliged to do or give a thing, or to accomplish in any other manner that which is agreed on —and especially in those in which the non-performance is to be attended with a dissolution of the contract, or with some *other penalty*, it is equitable and for the public interest that the covenants be not immediately dissolved, nor the penalties incurred for every sort of non-performance indifferently, *ib.* page 177, Art. 196. Although a covenant proves to be null, yet he who complains of it cannot restore himself to his own right unless the other party consents to it. But he must have recourse to the authority of justice, whether it be to get the nullity declared by a sentence and himself reinstated in his right, or to get the sentence of the court put in execution, in case it should meet with opposition; *ib.* page 191, Sec. 240. When a covenant is not dissolved by common consent, the party who complains cannot *molest the other*, but he ought to have recourse to justice to get the covenant declared void and the sentence of the Judge put in execution;" *ib.* 196, Art. 14. These extracts are very explicit, and place the whole matter of the effect of conditions and their breach, and of penal clauses and forfeitures, upon grounds which recommend themselves to the conscience and sense of justice of every one; and, moreover, are the foundations of our equity system on the same heads. It is laid down explicitly in Novisa. Recop., Book iii., Tit. 5, Law 1. that what the King has once granted to any one he cannot take away *without fault*, (Sine culpa). The important question is, *how* that fault is to be *ascertained*, and the sovereign will to enforce it be manifested. I have no doubt that in different branches of the administration of public affairs, somewhat different modes were adopted to enforce penalties and forfeitures. There were public denunciadores, known officers, and there were secret denouncers, who like plaintiffs in our *qui tam* actions, were the instruments of vindicating the violated laws and of enforcing the penalties attached to their breach.

The last part of the penal clause in this deed alludes most distinctly to such process, in case of breach of any of the conditions by the claimant. It says, in case "*he violate* the conditions, he shall lose his right to the land, and *it may be denounced* by another." Now, if *may* means *must*, which would be the case in a *decree* of the same sort, there would be no difficulty in the case. But it is possible that this is *a mere privilege to others*, and is a cumulative proceeding; not *exclusive* of any on the part of the Government, or decisive of the question whether the title does not revert *ipso facto*, upon the happening of a breach. An interesting case has lately been decided by the Supreme Court of Texas, Hancock *vs.* McKinney, Nov. Term, 1851. That decision was upon a complete Mexican title or grant like this, with conditions annexed, but the terms in the clause of forfeiture do not expressly refer to the process of denouncement by another; yet that mode of ascertaining the fact of breach of the conditions is referred to in the decision as an established course of procedure. The case, however, is not conclusive of the question whether it was or was not the only means by which the title of the grantee could be impeached, or whether any inquisition of any sort were *necessary* to reinvest the title in *the Government.* The language of the court upon that subject is, "It is certain that down to the period of the commencement of the revolution it would have been competent for any person entitled to land to have denounced any land that he might wish to appropriate to himself; and if, in the process of perfecting his title, it should appear that the land he wished to appropriate had been *already granted or conceded*, *the inquiry would be made* if it had been forfeited for the non-performance of conditions, or from any other cause. And whether the denouncer should have his title or not, depended upon the result of the inquiry whether such *forfeiture* had *occurred* or *not.*" I have remarked that this is not conclusive of the point, but from the general doctrines of the Mexican Law to which I have adverted, from the mention made of this mode of procedure in the penal clause of this grant, and from the fact as disclosed in the opinion of the court, in the case from Texas, that no re-*grant* would be made upon the mere allegation of forfeiture, but that it must be established by an *inquisition*, I am brought to the conclusion that there was not in fact a reinvestiture of the fee simple title in the Mexican Government of the land now claimed at the time the United States acquired the country, and that this Government only acquired by the treaty, if any thing, a mere right of the former sovereign to enforce a forfeiture.

There have been no cases brought before the Supreme Court of the United States under the former Treaties and Acts of Congress, which furnished occasion or necessity for any *express opinion* upon the question I am now considering. In the case of the United States *vs.* Sibbald, in x. Peters, 321, the court use this language:—"It is unnecessary to decide whether by the Acts which authorized the Courts of Missouri and Florida to decide on claims to land therein, Congress intended to assert a right by forfeiture, for conditions broken, to lands which had been once *legally granted.*" And it may well be doubted whether it would have been re-annexed to the Royal domain, had the province remained under the dominion of the King of Spain; nor is there any provision of any law of Congress which *specially requires the court* to enquire into the performance of conditions on which grants were made." The cases in which it has been held by the Supreme Court of the United States that this Government could, or at least would, take advantage of forfeitures which had occurred under the former Governments, were such as were considered by the court to have been of that category in which *no title in fee* had vested in the claimant, and that by the stringent force of the ordinances under which they issued, they were utterly *void ab initio;* and to be considered as *never having been given at all:* that the conditions were *precedent* and their performance expressly required, before the *concessions* were to *have any effect.* Of that class of cases are the United States *vs.* Kingsley, xii. Peters, 476; United States *vs.* Wiggins, xiv. Peters, 334, &c. In the absence of any express authority of the Supreme Court, I do not feel at liberty, under the terms of the Act of 3d March, 1851, to decide that we have *no authority* to declare a forfeiture of complete titles, by the non-performance of conditions subsequent. In this case the result of that inquiry has been satisfactory to my mind that the claim ought not to be rejected for the want of any compliance with those conditions under the Spanish Law, and more especially under the application to all the facts disclosed by the record of the principles of equity.

The only remaining question arising in the consideration of the validity of the claim in this case is, whether the land granted can be considered as having ever been, or is now capable of being, severed from the public domain, in virtue of what has been done in regard to it, by the authority of the Mexican Government. If any thing more is intended by, or embraced in, the requirement of a severance of the land granted, from the mass of the public domain, than the obvious requirement, which inheres in every grant, or deed, from the very nature of things, viz. that there must be something granted which can be distinguished from other things of the same sort, it must be derived from the positive laws and ordinances of the Government where the grant is executed. The general doctrine of universal application is plainly stated by Judge Marshall in v. Wheat., 359; iv. Cond. 682, in the following words: "It is essential to the validity of a grant that the thing granted should be so described as to be capable of being distinguished from other things of the same kind. But it is not necessary that the grant itself should contain such a description, as, without the aid of extrinsic testimony to ascertain *precisely* what is conveyed." In applying this rule we should observe what is the intention of the grantor as to the *thing granted.* Where the intention is to grant a *specific thing*, as a house, or town lot, the house, or lot, must be so described in the deed as to identify it, or by reference to something by which it can be done. But when the grant only intends to be of a certain *number* or *quantity*, of and understood, and defined *nature of things*, then that *number, or quantity*, is the matter to which the rule will especially apply; and that *number or quantity* must be so certain as to distinguish it from another number or quantity. But all the certainty above that if the *genus* or *species* of *the thing*, of which that certain number or quantity is predicated; and the further identification or specification of the thing, is to be determined in a mode to be agreed upon, or it may be established by means provided by law. It may be by the selection *ad libitum* of the grantee or grantor; or, as is usual in grants of land by a sovereign, by the *public officer* called the Surveyor. And where the thing is to be selected and specified, by a *public officer* chosen by the Government for the grantee, to perform that office—*his* omission or fault does not vacate the grant.—v. Monroe's Repts., 159. This distinction is palpable, and cannot be better illustrated than by a case adjudicated in i. Howard, 24. There was a concession upon a petition of the party, stating that he was *ignorant* of the *public lands* that were vacant, and, desirous to avoid interference and dissentions with any person, he further prayed his Excellency to grant them, at places where the Surveyor General might survey them, as vacant land. Here was a segregation of nothing, but the number 8000, from the infinite extent of numbers; any identification of a specific tract, or parcel of land, being *expressly excluded.* The grant was made accordingly of the 8000 acres of land, and the Surveyor General ordered to survey for the grantee that amount of vacant lands, without injury to other persons. And this claim was confirmed by the Supreme Court of the United States. Judge Catron, in delivering the opinion of the Court, states, as one of the grounds of objection taken on the part of the United States, to the conformation, that, "There is no description whatever in the said pretended grant, of the lands alleged to be granted, and no valid survey could be made so as to sever any lands from the public domain." He proceeded to answer the objection and says, "Although there is no description of any place where the land granted shall be located in the Governor's decree, still it was binding so far as it went. The Surveyor General was ordered to survey the land solicited, in places vacant, and without injury to third persons. The acts of the *subordinate officer came in aid* of the decree," &c. This proves what, indeed, needed no authority to establish, that a grant may be good, though not of any *specific thing*, which is ascertained in the mind at the time of granting. But *the thing of which the quantity* or *number* is predicated, is the *object* of the grantee to acquire, and of the grantor to give. All else, that is in the grant, is moonshine, but for *that.* Now, this primary object of getting the *thing* into possession for use and enjoyment is to be attained, in cases of public grants as I remarked above, usually through the instrumentality of officers of the Government. This appropriation of the specific thing, or separation of it, from the mass in which it lies counfounded, is, in every Government, a matter of public policy which relates to herself. The Government desires to know for her own interest and convenience *what* is left to her after that granted quantity is taken out, and *where* it is, so that she may know what she has to give to others, and that others may know *what* to solicit. It is the duty, or rather it is wise policy in every Government having lands to dispose of, to adopt such a mode or procedure of identification, of what she grants, as will best subserve *her own* and the public convenience and interest. But it is a matter which concerns *herself* and her own citizens alone. She may regulate it according to her own views of policy, in which she is generally determined by the means and conveniences which she may be able to command; and is often influenced by the peculiar condition of the country or province, and the pursuits—whether agricultural or pastoral—of the inhabitants of it. Whatever plan or course she may adopt, is all-sufficient to bind her and her citizens, and should also bind those who afterwards succeed to her rights and obligations. The Supreme Court of the United States have expressly recognized this view of the subject. In deciding upon cases where land is granted, or attempted to be granted *specifically*, and not a mere *number of acres*, or *quantity* of land, to be identified thereafter—either by the party at his election, or by a public officer—they have laid down the rule upon this subject expressly with reference to the laws and ordinances of the country making the the grant. They say, where the grants, even by a liberal construction, contain no points by which the lands can be identified, the grants must, for vagueness and uncertainty, be held void. The Court have not been influenced in this conclusion by any of the common law rules which make grants void for uncertainty: such, for example, if the King grant land in a peat waste, without ascertaining *what* part, or the *special name* of the land, or how bounded—the grant is void for uncertainty; and yet, if an individual so grant it would be good. They have only applied the *laws* and *ordinances* of the Government, under which those claims are derived; and required that the thing granted be so described as to be capable of being distinguished from other things of the same kind, or be capable of being ascertained by extraneous testimony—xv. Peters, 215. So in xi. Howard, 127, the Court say: " These conclusions are in strict accordance with numerous decisions of this Court, which insist on the necessity of the severance of the property claimed from the public domain, *either* by *actual survey*, or by some *ascertained limits* or mode of *separation recognized by a competent authority*. In view of these principles, we will examine for a moment the plan or system of granting, adopted by the Mexican Republic by the ordinance of the 21st of November, 1828, carrying out the general decree of the 18th of August, 1824, under which the grant in this case was made. This mode of disposing of the public domain by the Government of Mexico, was unlike that which had been pursued by the Spanish Government in the Provinces of Louisiana and Florida, and, indeed, unlike that pursued in most countries with whose practice, in that particular, we are most familiarly acquainted. In all those countries, the general course has been, upon the petition being presented by the party, or application in some mode made by any one desiring to obtain land, for the purpose of furnishing the necessary certainty of description, and of separating the land from that which is not granted; to direct a *survey* to be made by sworn officers or Surveyors, using the implements and apparatus necessary to do the work upon the ground, and afterwards to plot it upon paper. This description of the land, being thus made by a survey, is transferred into the grant. It consists of courses and distances, run by the Surveyor, and of stakes or marked trees, or other natural objects, which ascertain the very land which was actually surveyed. But in California there was no such means provided by the Government for that purpose; and yet, the public policy and interest of the Republic required the advancement of settlement and cultivation, in this region of her vast dominion. The Government proceeded to do this, foregoing the convenience which her more regular and usual course might have attained, in the matter of segregating the land granted, from the residue of her public domain. In this unprovided condition of the country, she adopted the plan of granting, requiring the applicant to present to the Political Chief a petition—as appears in the 4th article of the ordinance of 1828—stating with particularity all that related to the *person of the applicant*, " marking, likewise, with the distinctness that *may* be (possible), and describing in a map or (design), the land which he solicits." That map, or plan, which was a rude sketch, made with no scale of distances, with no reference to, or, at least, with no accuracy, as to *course*, was generally drawn, as it would seem, with the finger or some blunt instrument, and the lines colored with the juice of berries, or charcoal or some other coloring substance. It contained always notable natural objects, with which the country abounds, and generally, if not invariably, gave a *name to the place or tract solicited*, which, if not then notorious soon became so, and generally retains it still; stating the *supposed quantity* in leagues, within the natural monuments of rivers, hills, the sea, the Sierra, or some remarkable ravine or promontory of that coast range of mountains. That description *went* into the *grant instead* of a *survey*, and designated the *locus in quo*, the granted leagues were to be contained. Sometimes the grant was by those metes and bounds, and sometimes of a number of leagues within them. After the grant was made the party, in the language of the ordinance, was to *proceed* to the *possession*. This grant contains conditions also, which relate, as we have seen, to a possession, and to a measurement of the land according to the ordinance, which measurement was of the nature and kind exhibited in the record of this case. Such was, and is, the mode of segregation in this case, as provided for, authorized, acknowledged and recognized by the Government of Mexico, in California. As to any survey, in the legal sense of that word, as understood and practiced in the Provinces of Louisiana and Florida, and generally elsewhere, under the superintendence of a Surveyor General, such a thing was not contemplated nor *exacted*. To have required it would have been like the Egyptian exaction of the captive Jews, to *make brick without straw*. There never was that we can hear of, an officer holding the place of a Surveyor, in California under its former governments. The neighboring Justice of the Peace, or alcalde, who was required to officiate in that capacity, was not qualified to do more than to put the party upon the land, and make an *attempt* to measure it, which, with no compass but the sun, and with a lasso for a chain, was, of course, very far short of the accuracy of the same process, conducted according to Galvan, or to Gunter. It was all however that the government had provided means for, and was all that she required or expected. It was conducted with the observance of all due forms, and ceremony and in one of its rites, is almost identical with the *livery of seizin* of our Saxon ancestors. The grantee was required to pluck turf, or break twigs from the trees or shrubbery on the ground, or pick up rocks, and in token of his full ownership, to throw them to the *four winds*. The proceedings on the ground, were all reduced to writing, and deposited by the magistrate in the archives, where they are now found, with as much care and fidelity as a navigator would render up the chart of his voyage of discovery, to the Board of Admiralty, or to the Secretary of the Navy. Nor was all this a mere idle mockery. The result of this mode of judicial possession, and measurement, resorted to from necessity, as it would seem, has been to *identify the spot*, and lead us to it with almost unerring certainty. In this case the lines were pursued on three sides of the tract, the second record, stating, with particularity, the progress of the measurement. It does not appear that they did more, but closed the operation by *vista ojas*, or a survey with the eyes. A deposition of a *witness* referred to in the case of Bosidore in xi. Howard, who was a regular practical surveyor, states that in all his experience, he had never met with a Spanish survey, which inclosed every side of the tract. Even the Surveyor General, of Louisiana, seemed to think that the purpose of the Government was accomplished by that, and, doubtless, it was a sufficient identification. I do not think if there are any such monuments in existence, as the grant calls for, that any surveyor could miss his way to the place. The government of Mexico, I feel some assurance, would never have turned the claimant out of doors, from off the *land* where her officers had put him on the pretext, that the *land* could *not be ascertained*. She could not in good faith have done so, and I think *this* government ought not to deal more rigorously with him than *that*.

Her policy was satisfied by what was done in regard to the separation of the land granted from the residue of her *vacant lands*, and I entertain no doubt that in making the survey of this country according to the perfect system which the government of the United States has adopted, that there will never be any insurmountable difficulty in locating the claim of Cruz Cervantes. Guided by the map or design, referred to in the grant, and forming a part of the muniment of title; by the possession, which has continued from the day at least on which he was *formally* installed in it, to the present time, within the monuments described in the grant, a surveyor *can now*, without difficulty, find not only *where the land lies*, but by the aid of the recorded measment of his less accomplished predecessor, he *may find the beginning*, and, at any rate, he will be furnished with abundant means *to make one*. In conclusion, I think from a full view of the whole case that the claim of Cervantes is valid.

HARRY I. THORNTON, *Commissioner.*

August 3d, 1852.

Messrs. Jones, Tompkins & Strode,
Attorneys for the Claimant.

OPINION OF THE BOARD

DELIVERED BY

COMMISSIONER HILAND HALL.

AUGUST 9, 1852.

NO. 28. CLAIM OF PEARSON B. READING.

Pearson B. Reading petitions the Board of Commissioners for a confirmation to him of six leagues of land, to which he claims title under an alleged grant from the Government of Mexico. Testimony having been taken in support of the claim, and the case having been argued by counsel for the petitioner, as well as by the Law Agent in behalf of the United States, it has become our duty to pass upon it.

It appears from the documentary evidence produced in the case, the authenticity and genuineness of which is shown by parol proof, and by the public archives in the Surveyor General's Office, that the claimant presented a petition to Manuel Micheltorena, governor of the department of the Californias, for a grant of a tract of land, known by the name of *Buenaventura*, situated on the Sacramento River; that the petition was accompanied by a rough design, or plat of the land asked for, and also by a written statement of Capt. John A. Sutter, at that time having military and civil jurisdiction of the district in which the land was situated, declaring it to be vacant and unoccupied, and to be the farthest towards the frontier of any land that had been petitioned for. It further appears by such documentary evidence, that the said petition was, on the 1st day of December, 1844, referred by the Governor to the Secretary of the Department, who, on the same day, reported that the petitioner was an honest man, and that the land was vacant and might be granted him; that on the 4th of December, 1844, the Governor made a brief decree, under his hand, that the title might issue, and that such title or grant, bearing the same date, was duly issued to the claimant, signed by the Governor and countersigned by the Secretary.

This title or grant purports to pass the land to the grantee in full property, subject to the approval of the Departmental Assembly, and to certain conditions, as they are termed in the grant, which are similar to those found in other California title papers of that period. The only conditions, which it is material to mention, are those which relate to the building of a house within a year, and causing it to be inhabited, and to the procurement of judicial possession; there being no evidence or suggestion that any other of the conditions has been violated.

In regard to the first of these conditions, the proof is that the claimant, in August, 1845, went on the land and left a Frenchman there to build a house and keep possession; that in the fall of the same year he put a stock of horses and cattle on the land, and that the Frenchman continued living in the house and in charge of the stock for some time, but was driven off before the next spring by the Indians, who had become hostile, and that the house was burnt by them. The unsettled state of the country, growing out of the hostility of the Indians and the subjugation of California by the United States, prevented the further occupation of the land, until the month of June, 1847, when the claimant resumed the possession, built a house and put on horses and cattle, and has resided on the land ever since, cultivating it and raising stock.

Judicial possession of the land does not appear to have been given: the proof, however, is that such judicial possession was solicited by the claimant of Capt. John A. Sutter, in the Spring of 1845—that Capt. Sutter was at that time, and ever after, while the Mexican Government was acknowledged in California, the only officer within the district in which the land was situated who was authorized to give such possession, and that he neglected to give it in consequence of the distance of the land (about 150 miles) from his residence, and his constant public duties growing principally out of the unsettled state of political affairs in the Territory.

There is no evidence that the grant has been approved by the Departmental Assembly.

The land is not within the ten littoral or the twenty border leagues mentioned in the Mexican Colonization law of 1824. There is no doubt that the granting officer was possessed of all the authority to make the grant which had been conferred upon any of the Governors of California, and its genuineness is unquestioned. The objections made to its confirmation by the Law Agent arise out of the alleged want of performance by the claimant of the conditions inserted in the grant, and its want of approval by the Departmental Assembly.

In regard to the condition which requires the building of a house within a year, we think the proof shows that it has been complied with. A house was built within the required time, and it was inhabited until the claimant's agent was driven away by the hostility of the Indians, and the house destroyed by them. Another house was erected as soon as the state of the country became sufficiently settled to render it safe to occupy the land, and it has been inhabited ever since. We do not find any just obstacle in the way of the confirmation of the claim, growing out of this objection.

The words of the grant in relation to the judicial possession are these :—

"The land which has been granted is of the extent of which mention is made. The Judge who shall give the possession shall cause it to be measured according to ordinance, and the overplus which may result shall remain to the nation for its convenient uses."

There is nothing in this language which properly entitles it to the name of a condition. It requires nothing to be done by its grantee, but is only instructive and directory to the officer who may perform the service of giving such possession. It would be a perversion of language to hold that this simple direction to the officer in regard to the mode of performing a duty in which the grantee is not alluded to, should be construed into an absolute requirement of him, for the nonperformance of which his grant should become forfeited. Forfeitures are not favored either by the civil law or in equity, and there does not appear to be anything in the terms of this grant which should inflict so extreme a penalty on the grantee for the mere failure of the officer to give such possession.

Indeed, from the testimony it would seem that the grantee had done all that could be done on his part to obtain such possession. A few months after the grant he sought to obtain such possession from the only officer having authority to give it within the district in which the land was situated, who, for reasons beyond the control of the claimant, neglected to give it during the continuance of the Mexican authority in the territory. It is difficult to perceive what more could be required of the grantee, upon the most rigid construction against him of the language of the grant.

No Spanish or Mexican law or authority has been produced to show that grants have ever been held forfeited to the government by the failure of the party to obtain judicial possession, where possession of the land in fact had been taken, and it is presumed that none can be found. Such delivery of possession accompanied by the measurement of the land, and the placing of land marks was at most but a substitute for a survey by which the land was to be separated and distinguished from the lands of others and of the government. This survey has been held by the Supreme Court of the United States not to be essential to the validity of Spanish titles, which titles have been confirmed by that Court under surveys ordered by the Court where they had been neglected under the former Government. United States *vs.* Arredando, xiii. Peters, 133; United States *vs.* Levy, xiii. Peters, 133; United States *vs.* Forbes, xv. Peters, 173.

What might be the effect of a judicial possession actually given, upon the location, extent and boundaries of land, described in a grant made by the Spanish or Mexican Government, where such possession should be found to vary from the description contained in the grant, or, when such description was vague and indefinite, are questions which do not arise in the present case, and upon which no opinion is intended to be expressed. We do not think the want of such possession in this case furnishes any valid objection to the confirmation of the claim.

The remaining objection to the claim is founded on the want of approval of the grant by the Departmental Assembly.

By the regulations of the Executive Government of Mexico, of Nov. 21, 1828, made for carrying into effect, within the Territories of the Republic, the Colonization law of the Mexican Congress of of August 18th, 1824, and under which all titles were subsequently issued in California, the Governors of the Territories were authorized to make grants of land; but it was provided by section 5 of the regulations that the grants of the Governor should not be definitively valid without the previous consent of the Territorial deputation. In the present case, although the claimant had received a formal title paper from the granting officer and under it had taken possession of the land previous to the occupation of the Territory by the troops of the United States, and was in the quiet enjoyment of it at the time of the treaty of session by Mexico; yet, as something more remained to be done to perfect his title, viz. the approval of the grant by the Departmental Assembly—his title must be held to be an incomplete and imperfect one.

It does not, however, follow because the claimant's title was imperfect that we must necessarily decline to cofirm it. The authority of this commission, by the 8th section of the Act under which it was constituted, extends to all claims to lands in California, "made by virtue of *any right or title derived from the Spanish or Mexican Governments*," and consequently embraces incomplete rights and titles as well as those which had been fully consumated. Indeed, the leading object of constituting this commission, so far as the interest of claimants was concerned, was, as I conceive, to act upon titles of an incomplete and imperfect character. Land, to which a party at the time of the transfer of the Territory of California to the United States, had a full and perfect title under the Mexican Government, would, to all intents and purposes, be private property, and would, in obedience to the law of nations and the stipulations of the treaty be protected by the ordinary judicial tribunals without any previous special confirmation of title. But if notwithstanding some steps had been taken by the Mexican authorities towards the appropriation of the land to the ownership of an individual, there still remained any interest in the land, such interest would pass to the United States by the transfer and treaty, and in order to render the right and title of the individual available, a relinquishment of such interest of the United States would be required.

This relinquishment on the part of the United States this commission is authorized to make; and in determining upon the justice and propriety of making it, the Commissioners are directed in the 11th section of the Act, under which they are constituted, to "be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages and customs of the Government from which the claim is desired, the principles of equity, and the decisions of the Supreme Court of the United States so far as they are applicable." The question is, whether, according to the principles thus laid down this claim is entitled to confirmation.

By the treaty with Mexico, thus referred to, the inhabitants of the ceded Territory were, among other things, to be protected in the free enjoyment of their property. The term property, used in the same manner in the treaty by which Louisiana was acquired by the United States, has been repeatedly and uniformly held by the Supreme Court of the United States to comprehend lands held by every species of title whether inchoate or complete, embracing those rights which lie in contract, and are executory, as well as those which are executed. Soulard *vs.* United States, iv. Pet., 50; Delassus *vs.* United States, ix. Pet., 117; Smith *vs.* United States, x. Pet., 326; xi. How., 63.

In conformity with this construction of the word property in the Louisiana, and also in the Florida treaty, numerous Boards of Commissioners have been constituted to report and act upon inchoate and imperfect titles issued by the Spanish authorities. The Act of Congress of May 26, 1824, which gave appellate jurisdiction to the Supreme Court of the United States, and under which the decisions which are made one of our principles of action upon the titles in California, limits and confines the authority of that Court to titles which are imperfect. Such incomplete titles have been uniformly confirmed by Boards of Commissioners, by Congress, and by the Supreme Court, whenever the principles of justice and equity seemed to demand it. The broad principles which are laid down for our government appear to require us to do the same in regard to incomplete titles, protected by the treaty with Mexico.

The imperfect titles arising under former treaties were of different characters in different sections of the ceded territory, and it would be tedious to describe them in detail. As an example, it may be mentioned that nearly all the very numerous claims to land in Upper Louisiana, rested on concessions made by the Lieutenant-Governor of that province, who, in the concessions themselves, admitted and declared that he had no authority to grant the lands, and that the concession was given in order to enable the interested party, after making a survey, to solicit the title in due form from the Intendant-General, "to whom" (it was usually stated in the concession) "alone belonged by royal order, the granting and distributing all classes of land belonging to the royal domain."

Nothwithstanding these express declarations of the want of authority in the Lieutenant-Governor to make grants, the Commissioners to examine these titles under the Act of July 9th, 1832, "for the final adjustment of private land claims in Missouri," adopted a resolution as a principle for their government in acting upon them, "that what are called incomplete grants, by the custom and practice of the country were recognized as property capable of passing by decrees, transferable from one to another, and were liable to be sold for debts;" and holding such concessions to be protected by the treaty proceeded to confirm them, whenever they appeared to be genuine, and were not otherwise objectionable. (Report of Com. v. Green's Land Documents.) This action of the Commissioners was approved by Congress, and similar principles have since been acted upon by the Supreme Court under the Act of May, 1824, before referred to.

By an examination of the Mexican archives, now in the Surveyor General's office, and of authenticated copies on file in the office of the Secretary of this Board, it is found that, at the time of the conquest of California by the United States, a very large portion of the land in the occupation of its inhabitants was held by titles wanting the approval of the Territorial or Departmental Assembly. For several years previous to this time, the political affairs of the Territory had been in some confusion; the deputation had seldom been called together, and when assembled, its sessions had been either very brief or occupied with the consideration of pressing matters of a public character. It was the duty of the Governor, by the regulations of 1828, to present the grants to that body for their approval, but under these circumstances such duty had been greatly neglected, and consequently many grants remained unacted upon. The Assembly had rarely disapproved a grant that had been made by the Governor, and there seems no reason to doubt that the great mass of the titles which remained unapproved would have readily obtained the approbation of the Assembly if they had been presented to that body at a time when the attention of its members could have been directed to their consideration.

By the custom and practice of the country, as shown by the Acts of the Governors, the territorial and departmental assemblies and judicial tribunals, the evidence of which is found in the public archives and authenticated copies before mentioned, and of which I think we may and ought, for general purposes, to take judicial notice, it is fully shown that incomplete titles of the character of that under which the present claim is made were like those in Upper Louisiana, treated and considered as property. They were devised by will and inherited, distributed among heirs and devises by the proper tribunals, transferred by instruments of conveyance, and sold under insolvent laws for the payment of debts.

Under these circumstances it seems difficult to resist the conclusion that the title of the claimant in this case, though imperfect, was such an one as was intended, under the denomination of property, to be protected by the treaty, and one which it would be the duty of this Board to confirm.

There is another consideration which appears to me entitled to some weight in the application of the principles of equity to Mexican land titles in this State.

The Government of the United States first acquired possession of the Territory of California by conquest, and under circumstances imposing a strong obligation on its Government to protect and maintain its people in all their just rights, and particularly in regard to their rights and titles to land. In the year 1845, in anticipation of a war with Mexico a naval force was ordered to the Pacific, with secret instructions to its commander, Commodore Sloat, that in case he should receive information of the existence of such war, he should immediately take and hold possession of California; and in the performance of this duty very general and extensive powers were conferred on him. On the 7th day of July, 1846, the Commodore having obtained information of the commencement of hostilities between the two countries, landed a body of seamen and marines at Monterey, the capital of the territory, took formal possession of the place, and issued a proclamation stating the existence of war between the United States and Mexico, and declaring that he should hoist the flag of his country immediately in Monterey, and should carry it throughout California. It invited the inhabitants of the territory to submit without resistance to the authority of the United States, and promised them protection in their persons, property and religion, and also high political privileges under the new government that was about to be extended over them. Among the engagements thus made by this proclamation, was one in relation to land titles, in the following words:—"All persons holding titles to real estate, or in quiet possession of lands under color of right, shall have those titles guarantied to them."

On the arrival of the forces of the United States at the Custom

House in Monterey, the proclamation was read to the assembled inhabitants, and then posted up in different parts of the town, both in Spanish and English, and distributed through the territory.

There can be no doubt that Commodore Sloat was fully authorized to make the engagements to the people of California which were contained in his proclamation, and that a most solemn obligation was thereby imposed on the Government of the United States to perform them in the sense and in the spirit in which they were made and understood.

It is impossible to say precisely what influence these promises and engagements in behalf of the United States, (which were afterwards substantially repeated in several other proclamations,) had in enabling the forces of the United States to complete and maintain the conquest of this territory. The principal part of the property of the inhabitants of the territory consisted of lands and the stock for which the lands funished sustenance, and it cannot be doubted that a solemn engagement to maintain the inhabitants in their titles, whether they were of a perfect character or were held under a color of right, would be strongly calculated to lessen the motives to resistance and to render the conquest of the country more easy and expeditious.

It may be that those who resisted with the greatest energy and perseverance, finally slackened their efforts and surrendered to the invaders, relying upon the faith of this solemn engagement. It cannot be doubted that many remained neutral in consequence of it. And who can say that that active and efficient body of volunteers, composed of inhabitants of California, whose services most essentially contributed to the first and final conquest of the country, and without whose aid the efforts to conquer it might have been wholly unsuccessful, could have been induced to enter into and continue in the service of the United States, but for this solemnly pledged faith of the Government to protect and maintain them in the enjoyment of their property.

It appears from the evidence in the case that the claimant, Pearson B. Reading, was an officer in the beforementioned body of California volunteers from its first organization in the month of June, 1846, and that he continued to serve in the battalion until it was disbanded in the month of May, 1847, when he returned to re-occupy his land, which occupation, for the reasons before stated, had been temporarily relinquished.

If the claimant in this case had applied to Congress for a confirmation of his title, on the ground that the faith of the nation had been pledged to protect and maintain it, and in consequence of which plighted faith, he had risked all his property in the territory and perilled his life in the service of the Government, I do not perceive how the claim could be justly resisted. I am by no means clear that it is not a matter proper to be considered by this Board of Commissioners in applying the principles of equity to the determination of the validity of the claim. It would certainly be a strange sort of equity that should allow us to disregard the plain demands of justice, and sanction a palpable violation of the faith of the nation.

On the whole, we are of opinion that in accordance "with the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages and customs of the government from which the claim is derived, the principles of equity and the decisions of the Supreme Court of the United States," the claim of Pearson B. Reading ought to be confirmed. The entry of a final decree will be reserved to a future day.

Crosby & Rose, Attorneys for Claimant.

OPINION OF

COMMISSIONER WILSON,

ON THE

PETITION OF CARMEN SIBRIAN DE BERNAL, WIDOW, AND JOSE JESUS, ONLY CHILD OF THE LATE JOSE CORNELIO BERNAL, DECEASED.

The petition in this case sets forth that on the tenth day of October, A. D. eighteen hundred and thirty-nine, Manuel Jimeno, Governor ad interim of the Californias, by virtue of the authority of his office granted to Jose Cornelio Bernal a certain tract of land known by the name of *Rincon de Salinas y Potrero Viejo*, in San Francisco County, comprising one square league.

The petition further states that on the twentieth day of May, A. D. eighteen hundred and forty, the Departmental Junta approved of the said grant in due form of law.

The petition further states that on the twentieth day of November, A. D. 1850, the said Jose Cornelio Bernal died in the County of San Francisco, leaving the petitioners his sole heirs. That previous to his death the land mentioned in said grant was in full and quiet possession of the said Jose Cornelio Bernal, and since his death has been and now is in the full and quiet possession of these petitioners.

In support of the petition aforesaid, the claimants put in a paper purporting to be the original Deed of Grant made by Manuel Jimeno, then acting Governor of the Californias, dated on the 10th day of October, A. D. 1839, in and by which deed of grant, the land claimed in the petition, in this case, is set out and the same is granted to the said Jose Cornelio Bernal, and declaring to him the ownership of it by the said Letters Patent, subject to the approbation of the most Excellent Departmental Assembly and to certain conditions recited as usual in Mexican Grants.

This original deed of grant and the signatures thereto, viz, the signature of Manuel Jimeno, who signed and executed the same as Governor, and Francisco C. Arce, who signed the same as Secretary, are proved to be genuine by good and competent evidence.

The petitioners further in support of their claim to the land, put in a rough map or plot of the land claimed, and also a paper purporting to express the approval of the most Excellent Departmental Assembly to the grant. The said approval was given on the 22d day of May, A. D. 1840, and a certificate of that fact given by Governor Alvarado on the 30th day of May, A. D. 1840. The signature of Governor Alvarado to said certificate is duly proved to be his genuine signature.

The petitioners further show, by good and sufficient evidence that the said Jose Cornelio Bernal was in the full, quiet and undisturbed possession of said land for some ten or twelve years before his decease, and that they, the petitioners, are and have been ever since in the possession thereof.

Upon examination of the Expediente and papers touching this case, on file in the archives of the former Government, and now in the possession of the Surveyor-General of the United States for California, and a comparison of the originals proved and placed on file with our Secretary, we find them perfect and complete, and free from all doubt or suspicion.

The papers and proofs above referred to having been presented and read to this Board, and the cause having been fully argued by counsel learned in the law, in behalf of the petitioners, and by the learned Law Agent in behalf of the United States, it is now submitted for our consideration and adjudication.

By the ninth article of the Treaty of Guadalupe Hidalgo, by which California was acquired, the United States engaged and stipulated "That Mexicans who might thereafter become citizens "of the United States, should be maintained and protected in the "free enjoyment of their liberty and property."

This obligation is fully and distinctly well expounded by the learned Judges of the Supreme Court of the United States in the case of Soulard et al. *vs.* The United States, iv. vol. Peters, page 511.

In that case the court say, "The United States, as a just nation, "regard this stipulation as the avowal of a principle which would "have been equally sacred, although it had not been inserted in "the treaty." In the same case the court say as follows:—"The "term property, as applied to lands, comprehends every species "of title, inchoate or complete. It is supposed to embrace those "rights which lie in contact, those which are executory, as well "as those which are executed."

This correct and just principle has ever been respected by the authorities of the United States, and the Supreme Judicial Tribunal of our great nation has clung to it with unwavering tenacity.

The question, then, (and in fact the only material question,) for us to consider, in the case before us, is, had Jose Cornelio Bernal, at the time of the ratification of the Treaty of Guadalupe Hidalgo between the United States and Mexico, such a property in the land claimed, in the above recited petition of his widow and only son, as to entitle him, in his lifetime, and them, as his heirs, after his decease, to the benefit of the stipulation contained in the ninth section of the Treaty?

The learned Law Agent of the United States interposes objections to the confirmation of the claim of these petitioners. He raises two points for our consideration, in support of his position, as follows:—

First—That the land claimed lies within ten leagues of the sea coast.

Second—That it does not appear that judicial possession of the land claimed by these petitioners had been given to the said Jose Cornelio Bernal in his lifetime, or to those petitioners since his decease.

Both of these points we have maturely considered, and our reasons for overruling them have been elaborately given in an opinion which we have already announced in the case of Cruz Cervantes. It is unnecessary to recapitulate what we have before said upon these points. The reasons and conclusions given in that case apply to this and all other cases wherein the same questions arise.

The land claimed by these petitioners lies within ten leagues of the sea coast—but we think there is nothing in that fact which should deprive them of their property in the land, and for the reasons more fully set forth in the opinion of this Board in the case above cited.

There is no direct and positive evidence in the papers filed in this case, nor in the testimony of witnesses taken, to show that

José Cornelio Bernal was put in possession of said tract of land by any formal judicial act of an officiating magistrate.

There is some evidence in the case tending to show that he was soliciting juridical possession from the proper magistrate soon after obtaining his grant. It is also in evidence, that the magistrate and some of the nearest neighbors, and most intimate acquaintances of the said José Cornelio Bernal—by whom these petitioners might show that juridical possession had been given to him in his lifetime—are now dead. However that fact may be, it appears to us, under the circumstances of this case, immaterial whether actual official juridical possession of said land was or was not given. That particular requirement, which is inserted in most of these Mexican grants, and which is inappropriately called, as I think, a condition, is directory only. There is no time limited within which the grantee is required to do it, nor has it appeared, in any case thus far before the Board, that any advantage has ever been taken, by the former Government of the country, of any grantee who has neglected it. This second point taken by the Law Agent we think should be overruled, and refer to the opinion rendered in the case of Cruz Cervantes for our reasons therefor more at large.

We come now to consider the case as it is presented by these petitioners.

They exhibit to us an original grant for *one square* league of land known and called *Rincon de Salinas y Potrero Viejo*, situate in the County of San Francisco, and State of California. They exhibit a document which contains a full and specific confirmation or approval of that grant by the Departmental Assembly of the Territory of California, before it came under the Government of the United States. They prove the signatures to that deed of grants, and to the certificate of such approval, to be the genuine signatures of the persons signing them. From the archives of the former Government we find that the persons who signed said deed of grant and certificate of approval, were acting, at the time, in the official capacities they purport to have been acting in by the original documents and papers aforesaid. So far, then, for the original title papers and record evidence.

By the testimony of witnesses the fact is fully proved that José Cornelio Bernal went into immediate possession of the land granted; that he continued to occupy the same up to the time of his death; that these petitioners, his widow and only son, have occupied and been in the possession of the same to the present time.

We are, therefore, unanimously of the opinion that José Cornelio Bernal had such a property in the said tract of land known and called *Rincon de Salinas y Potrero Viejo*, not exceeding one square league, as entitled him to the benefit of the stipulation in the 9th article of the treaty of Guadalupe Hidalgo; that upon his decease his widow and his son, these petitioners, succeeded to a good claim to the same tract of land.

The title of these petitioners we think to be well sustained upon the principles of equity—the usages and customs of the former Government of the country, and by all the principles of law and equity hitherto announced in the decisions of the Supreme Court of the United States, which are applicable to this case.

The United States are bound "to maintain and protect" these petitioners "in the free enjoyment of the property mentioned," by the stipulation in their treaty with Mexico and by the law of nations.

The claim of these petitioners we consider to be a good and valid claim, and as such must be confirmed by the Board. This Board reserve the entering up a decree of final confirmation upon the validity of this claim for the present.

Messrs. HALLECK, PEACHY & BILLINGS,
Attorneys for the Claimant.

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EVIDENCE

IN THE CASE OF

THE UNITED STATES,

VS.

ANDRES CASTILLERO,

INTRODUCED BY THE

U. S. DISTRICT ATTORNEY,

—TO—

SHOW FRAUD AND FORGERY

ON THE PART OF THE CLAIMANT.

W. E. LOVETT,
Att'y at Law,
San Juan
Monterey Co.
California.

[1857]

Whitton, Towne & Co's Print, 151 Clay Street.

PREFACE.

W. E. LOVETT,
Att'y at Law,
San Juan
Monterey Co.
California.

The case of the United States *vs.* Andres Castillero is now on trial before the U. S. District Court for the Northern District of California on appeal from the Board of U. S. Land Commissioners. It is averred on behalf of the United States, the appellants in the case, that the claim is fraudulent, and that some of the papers introduced to sustain it are forged.

On the 20th ult. the U. S. District Attorney began to introduce testimony in open court, to prove these averments of fraud and forgery, and the testimony from that date to the present is herewith presented, excepting the deposition of Mr. James Alexander Forbes which is not yet closed. A few references however are made to this testimony of Mr. James A. Forbes where he testified to the genuineness, authorship, receipt, dispatch or delivery of certain letters and papers which are given in evidence.

SAN FRANCISCO, Dec. 18th, 1857.

DEPOSITION OF BENJAMIN DAVIDSON.

United States District Court,
Northern District of California.

San Francisco, November 28, 1857.

On this day before the District Court of the United States, for the Northern District of California, came Benjamin Davidsion, a witness produced on behalf of the United States in case No. 420, being an appeal from the Board of Commissioners to ascertain and settle the private land claims in the State of California, in case No. 366 on the docket of the said Board of Commissioners, and was duly sworn, and testified as follows:

Present:—The District Attorney and the counsel for claimant.

Questions by the District Attorney.

Question 1.—Have you produced the box, as required by the subpœna *duces tecum?*
Answer 1.—I have.
Q. 2.—From whom did you receive this box?
A. 2.—From Mr. Laurencel and James Alexander Forbes. It was deposited, subject to their joint order, with me for safe keeping. It has so remained ever since.
Papers produced and handed to the clerk to be marked.

Cross Examined.

This box was deposited with me about six or eight months ago by Mr. Laurencel; Mr. Forbes came with him I believe; I am not positive. It was distinctly understood that I was not to give it up except on their joint order. This was the distinct understanding. The box has been taken away once or twice on the written order of the parties; I cannot say when it was last taken away; one order was in writing; cannot say whether I can produce it.

DEPOSITION OF HENRY LAURENCEL.

Henry Laurencel, sworn on his *voire dire.*

Question 1.—Have you any interest in defeating the claim of Andreas Castillero to the land in controversy in this cause?

Answer 1.—Yes sir.

Q. 2.—What is the nature of your interest?

A. 2.—I have an interest in the claim of Charles Fossat, and the whole claim is under my control.

Q. 3.—What claim is that?

A. 3.—For a part of the Rancho de los Capitancillos.

Q. 4.—Under what grantee?

A. 4.—Under Justo Larios.

Q. 5.—How long have you had this interest?

A. 5.—Since August, 1854.

Q. 6.—Did you have no interest before that time?

A. 6.—I had no interest, but was managing the claim of Fossat.

Q. 7.—When did he acquire his interest?

A. 7.—I believe his first mortgage was in March, 1851. His next interest was in January, 1852. I bought for him at sheriff's sale three undivided fourths of the Rancho.

Q. 7.—Where does he live?

A. 7.—In the neighborhood of Oroville.

Q. 8.—To whom was that Rancho granted?

A. 8.—To Justo Larios.

Q. 9.—What portion of Fossat's interest do you hold?

A. 9.—I hold one-half of the interest purchased at sheriff's sale in 1852.

Q. 10.—Who holds the remaining half?

A. 10.—James Eldridge.

Q. 11.—From whom did he acquire his interest?

A. 11.—From Charles Fossat, in March, 1854.

Q. 12.—What did you give him?

A. 12.—A large amount of money; the amount is my private business.

Q. 13.—Do you know the mine of New Almaden?

A. 13.—I do.

Q. 14.—Do you claim that that mine is on your land?

A. 14.—According to my best knowledge and belief it is so.

Q. 15.—You have then a pecuniary interest in defeating this claim?

A. 15.—I have.

Testimony objected to on ground of interest.

Testimony taken subject to exception. Witness sworn in chief.

Q. 16.—Look at those papers, (papers produced from box); by whom are they owned?

A. 16.—By James Alex. Forbes and myself.

Q. 17.—How did you acquire an interest in them?

A. 17.—By paying for them.

Q. 17.—What amount did you pay?

A. 17.—I paid a large amount; I decline to say the amount.

Q. 18.—When did you purchase them, and for what purpose?

A. 18.—I purchased them between November 1856, and March 1857, when I finally bought and paid for them. My knowledge of their contents induced me to purchase them.

Q. 19.—Please examine the papers, and state in whose hand-writing they severally are.

A. 19.—I know the hand-writing of that marked "F. No. 27." It is the hand-writing of James Alexander Forbes. I know it well. I have seen him write. The endorsement is written by myself. "F. No. 26" is also in his hand-writing; the endorsement is also in his handwriting. "F. No. 25." is also in his handwriting; also the endorsement.

It is admitted that the box containing the papers was deposited with B. Davidson, March 4, 1857.

"F. No. 24," is in the hand-writting of James Alexander Forbes; the whole of it. So are also "F. No. 23," "F. No. 22" and "F. No. 21," "F. No. 16," "F. No. 20," and "F. No. 12;" these I believe to be in the hand-writing of Mr. William E. Barron—but I am not very positive about it; my only means of information is from the comparison of these papers with a private letter of my own from Mr. Barron.

Q. 20.—Have you conversed with James Alexander Forbes as to the circumstances under which those letters were written?

Question objected to.
Question withdrawn.

CROSS EXAMINATION.

Q. 21.—What did you pay Mr. Forbes for those papers?

A. 21.—I have already declined to answer that question.

The Court requires the witness to answer.

I paid Mr. Forbes, twenty thousand dollars for the interest that I was acquiring in depositing these papers, and the engagement on his part to go to Mexico, when I should request him to do so, and procure for me the proof of the fraud committed in this case, which he assured me he could procure. I was also to pay, if necessary, his traveling expenses.

Q. 22.—Did you pay in cash ?

A. 22.—I paid one half in cash, and gave security for the other half. It is now due. The contract was verbal. I gave him a pledge before witnesses that I would pay him the money. The witnesses were Mr. Randolph, Mr. Crittenden, and Mr. Gould. I promised him not to sell or hypothecate my interest in my Rancho without paying him.

Q. 23.—Why did you not put it in writing ?

A. 23.—I did not wish to ; Mr. Forbes, I believe, was satisfied ; Mr. Eldridge was not a party to the contract at the time it was made ; he subsequently assented to it ; I paid Mr. Forbes one-half of the $20,000 some time in March, 1857 ; Mr. Eldridge was then in Philadelphia ; he assented to my contract on his return in May, 1857 ; he paid one-half ; the whole amount was charged to the debit of our Rancho.

Q. 24.—What then did you mean by saying he adopted the contract, and paid you one-half ?

A. 24.—I never had mentioned this contract to him ; I made it on my sole responsibility ; I paid to Mr. Forbes this money for the joint use of those papers.

Q. 25.—What did you mean by "joint use" ?

A. 25.—I understood that they were to be used by the joint consent of both ; I did not understand that I purchased the sole use of those papers ; the papers are used on this occasion without his consent.

Q. 26.—Did you ask Mr. Forbes' consent to use them on this occasion ?

A. 26.—I did ; he said he would consult counsel ; after consulting he refused.

Q. 27.—How long did it take you to drive this bargain ?

A. 27.—The first contract was made with him about Christmas time ; it was nearly in the same terms as the last except that the papers were to remain in Mr. Forbes' possession.

Q. 28.—How much did he ask for these papers ?

A. 28.—I did not bargain any ; I gave him the price he asked.

Q. 29.—Do you think Mr. Forbes will accept the last half of this money ?

Objected to—withdrawn.

Q. 30.—Where is Mr. James Eldridge ?

A. 30.—I don't know ; he is at home, or in New York, Philadelphia, or Washington.

Q. 31.—Did you read those papers before you bought their use ?

A. 31.—I did ; I have not requested Mr. Forbes to go to Mexico.

Q. 32.—Do you know what were Mr. Forbes' pecuniary circumstances ?

A. 32.—I did not then know what they were at that time ; I first learned that Mr. Forbes was a bankrupt from Mr. Peachy's cross-examination of him in the case of the United States vs. Charles Fossat; at the time he gave that deposition I had already made an agreement with him touching these papers ; I received an interest in the Alameden mine in payment of a claim I had against him ; this was in August, 1850 ; I have sold this interest ; I have stated that I promised Mr. Forbes not to sell or mortgage my interest in the Rancho de los Capitancillos without paying him ; that pledge, or promise, was made last night ; I have been active in procuring testimony and employing counsel to defeat this claim ; I consider that by defeating it I will add greatly to the value of my Rancho ; I consider that by defeating it I will remove a cloud upon my title.

DIRECT RESUMED.

I sold the interest I acquired in the Almaden mine, early in 1851.

Q. 33.—When you sold it, had you any knowledge of these papers ?

A. 33.—I had never seen any papers relating to the New Almaden mine ; the oral agreement for the payment of the last $10,000, was the same as that I have stated to have been made in the presence of Messrs. Crittenden, Randolph and Gould.

CROSS EXAMINATION RESUMED.

I endeavored to procure a compromise by means of these papers, papers, with the Almaden Mining Company ; it was through Mr. Hall McAllister. They were also exhibited to Mr. John Parrott for the same purpose.

DIRECT.

I spoke to Mr. Hall McAllister, both before and after his employment in this case, as a proper person to approach as representing the interest of his client ; openly and without concealment. I desire to say that in the first agreement with Mr. Forbes, he imposed upon me the obligations to make an offer for a compromise ; I then sought an interview with Mr. Hall McAllister, sometime in January, 1857 ; when Mr. Parrott saw the papers it was not at my instance ; the answer I received from Mr. Hall McAllister on behalf of Mr. Parrott being, that if Mr. Forbes or myself had such documents they were fraudulent ; I then ceased all negotiation on this subject ; Mr. Parrott inspected these documents at his request, as I understood, to Mr. Crittenden.

Q. 34.—Did you take the advice of counsel as to the expediency of making a compromise ?

A. 34.—I did not; it was a peremptory condition of the first contract that I should make the offer of compromise through Mr. Hall McAllister.

Cross Examination.

The first contract was in writing; it was cancelled at the time I made the second contract; the second contract was in writing; I have deostryed my counterpart; it was in duplicate; I destroyed it by the advice of counsel; I did not preserve a copy of either; I thought it would be inconsistent with the object with which I destroyed the papers.

(Signed,) H. LAURENCEL.

Sworn to before me,

(Signed,) OGDEN HOFFMAN.

DEPOSITION OF G. W. P. BISSEL.

Question—Are you acquainted with Alexander Forbes of Tepic?

Answer—I am: or was, a few years ago. I know the handwriting of Alexander Forbes, William Forbes and Eustace Barron.

Q.—Look at "F. No. 1," and say in whose handwriting it is.

A.—It is the signature and handwriting of Alexander Forbes.

Letter marked "F. No. 2," is in the handwriting and is the signature of Alexander Forbes.

Letter marked "F. No. 3," is also in the handwriting and signature of Alexander Forbes.

"F. No. 4," is handwriting and signature of the same.

"F. No. 5," is handwriting and signature of the same.

"F. No. 6," is handwriting and signature of the same.

"F. No. 7," is handwriting and signature of the same.

"F. No. 8," is the handwriting and signature of the same.

"F. No. 9," is handwriting and signature of the same.

"F. No. 10," is handwriting and signature of the same.

"F. No. 11," is the handwriting and signature of the same.

"F. No. 12," is a press copy signed in the name of Barron, Forbes & Co. The signature is in handwriting of William Forbes.

"F. No. 13," is the handwriting and signature of Alexander Forbes.

"F. No. 14," is the same.

"F. No. 15,', is the same.

"F. No. 16," is signed by Barron, Forbes & Co.; my impression is that it is the signature of Eustace Barron, a partner in the house.

"F. No. 18," is signature of Barron, Forbes & Co.; handwriting of Eustace Barron.

"F. No. 19," is handwriting and signature of Alexander Forbes.

"F. No. 20," is signed by Barron, Forbes & Co.; the signature is that of Eustace Barron.

"F. No. 21," is a Spanish document; no not know the handwriting: it appears to be a copy.

The Alexander Forbes I have spoken of was a partner in the house of Barron, Forbes Co. in 1846—1847. He retired from the firm I think in 1848.

Mr. Eustace Barron was the head of the house. Mr. Alexander Forbes resided in Tepic, in 1847 and 1848, up to the time he left the country, which I think was at the close of 1848. He has since resided in London. I am not certain as to the time he left. Subsequent to the time he left, a son of Mr. Eustace Barron was taken into the house During my residence at Tepic, Mr. Alexander Forbes made two voyages to California. The last was in 1847. He was absent about six months. He must have been in Mexico nearly two years after his return from California. I saw James Alexander Forbes in San Blas, in 1847. He passed through on his way to Tepic. It might have been in 1849; if so, it was before June, 1849, for I left at that time. San Blas is the seaport of Tepic; it is on the direct road to Tepic. I saw Mr. James Alexander Forbes both going to and coming from Tepic.

CROSS-EXAMINED.

In 1846 I was at Mazatlan. I was there in 1845. My impression is he stopped there on his way to California. I would not like to swear that he was here in 1845–6. I feel almost morally certain that he was. I am certain he was here in 1847.

[COPY No. 1. J. A. MONROE.]

TEPIC, 11th May, 1846.

MY DEAR SIR:

I wrote you at great length on the 15th ult. by the Rev. Mr. Macnamara, who intends visiting California, and who proceeded to Mazatlan in order to procure a passage; but he is still there, and there is every probability that he will go by the vessel which takes this. I need not repeat what I have already said, but it may not be amiss, in case of my letter not reaching you, to state that its object was to request of you to procure as correct information as you could respecting the quicksilver mine or mines lately said to be discovered in California, one of which you mention as being worked by Mr. Castillero. If quicksilver mines of value are discovered, it would be of immense interest for Mexico, as owing to the scarcity and high price of this article the poorer silver mines of Mexico cannot be worked. I therefore beg to request your kind attention to this letter.

I am, my dear sir,
Your most obedient servant,
ALEX. FORBES.

(Addressed)

James A. Forbes, Esq.,
Brit. Vice Consul,
California.

(Endorsed)

Alex. Forbes, May 11th, '46,
rel. to Quicksilver Mine.
No. 1. J. A. Monroe.

[No. 2.]

2d Sept. 1846.

My Dear Sir:

I am much obliged to you for your offer to procure for me more information respecting the quicksilver mines, and I hope they may turn out to be of value. Anything certain which you may give me about them will be very interesting, as our mining establishments in this country must greatly be benefitted by the abundance of quicksilver, and which is now scarce and dear here. I understand Castañares (or Castañedo) is still in Mexico. Does not one of these mines belong to him, or has he disposed of it?

I am, my dear sir,
Yours very truly,
J. A. Forbes, Esq. ALEX. FORBES.

I received your power of attorney to James Murray, Esq., and forwarded it by last packet.

(Endorsed)

Alex. Forbes, Sept. 2d, '46,
rel. to Quicksilver Mine, No. 2.
No. 2. J. A. Monroe.

(In pencil.) A. Forbes, Private, 1st and 2d Sept. 1846.

[No. 3.]

Tepic, 7th January, 1847.

James A. Forbes, Esq., California,

My Dear Sir:

I had the pleasure to receive your very obliging letter of the 29th of October last, which chiefly relates to the mine of quicksilver about which I wrote you at so much length by Mr. Macnamara. I had previous to the receipt of your letter been in treaty with D. Andres

Castillero, respecting this mine, and on the arrival of Mr. Macnamara with the powers from the other proprietors, the treaty was much facilitated, and I am now happy to inform you that I have contracted for the "Habilitation" of the mine, and have also purchased a part of Mr. Castillero's "Barras," all of which will be made known to you by Mr. Walkinshaw, who goes to California as my attorney and agent for the examination and working of the mines. Mr. Walkinshaw will wait upon you as soon after his arrival as possible, and will show you all the documents, and ask your advice and assistance in carrying out my views.

It is needless for me to say more than that I count on you as a friend, who will lend your best assistance to bring this negotiation to a good account, and as you inform me that you are the proprietor of two "Barras," it will be for your interest and that of all others concerned that every means may be used to make the most of it.

I have sent up a small sum of money to make a beginning, and if Mr. Walkinshaw is of opinion that the business ought to be carried on to a large extent, the necessary apparatus will be ordered, and ample funds sent to carry on the business properly.

I have for the present only sent 114 iron bottles, but I can get a large quantity in this country when they may be required.

Mr. Walkinshaw will inform you that everything is left open respecting the interest which he and others may take in this enterprise, and I trust you will also leave to me the regulation of the affair which must depend on after prospects. For the present I wish no one to run any risk or to incur any expense but myself, which, however, you must be aware will be very considerable; but if the mine turns out well there will be sufficient for all.

I, in conclusion, beg leave to recommend most strongly my friend Mr. Walkinshaw to your best attentions and assistance, and I am sure you will find him most worthy of your confidence.

I am, my dear sir,
Yours most sincerely,
ALEX. FORBES.

(Endorsed)

Alex. Forbes,
relative to Mine of Quicksilver,
7th Jan'y, 1847. No. 5.
No. 3. J. A. Monroe.

[No. 4.]

Monterey, 1st Oct. 1847.

James A. Forbes, Esq.,
My Dear Sir:

You will no doubt be surprised to hear of my being in Monterey, and I am so myself. I, however, resolved to take a trip to this country, which I have so long wished to visit, and arrived last afternoon in the "William," where I have been kindly received by the authorities, and no difficulty of any kind thrown in my way.

I have sent to Mr. Alden to come over here, if he can, and take some people to the mine which I have brought with me, and it is very probable I shall accompany him, when I shall have the pleasure to see you.

Mr. Walkinshaw has come with me, but without his family. He has been very ill all the voyage, and is now on shore in a very weak state, but I hope he will soon recover. I have a thousand things to say to you, but must wait till I have the pleasure of seeing you.

Please inform the good Padre Real of my arrival, and tell him I don't write him as I am a bad scribe at Castillano, but that I shall soon be at his Domicile.

Believe me to be, my dear sir,
Yours very sincerely,
ALEX. FORBES.

We had 32 days passage.

The American Army, under Gen. Scott, was within 6 leagues of the city of Mexico. 10,000 men and a battle was daily expected. The Mexicans say they have 32,000.

(Endorsed) Alex. Forbes, on his arrival at Monterey, Oct. 1st, 1847. No. 3, and F. No. 4.

J. A. MONROE.

(In pencil) Alex. Forbes, Monterey.

MINA, 19th, Nov., 1847.

JAMES A. FORBES, ESQ.,
MY DEAR SIR:

I wrote you the other day, which did not find you at home. I am still here preparing the apparatus far making a better trial of the ores, but as Mr. Wallis, the artizan, is unwell we go on but slowly. I am also very anxious to have the mine cleared out and put in a proper working state before I leave it, and for this purpose we have been sinking a "Plan" at the "Respaldo Alto" in order to run a "Testero" across the vein, and to discover the value and abundance of the ores in its whole width. In doing this we have, most unexpectedly, found that in this "Plan" there are no cinabar whatever, although over it, in the upper part of the vein, there are ores. This puzzles us greatly, but we hope that in cutting across we will fall in again with ores towards the "Respaldo Bajo." Can this mine be a "Muerto?" I must verify that, and so must you and the Padre with your own eyes. I see very good ores in the upper part of the mine in all directions, but why does it get into Barra lower down? The Plan is about five varas lower down than where you and the Padre wrought, and on the other side of the vein. The people will go on cutting across, and when they again get into "Metal" I will send you a man on purpose. I am confident we shall find them, but there will always be about two varas or more of the vein next the Respaldo Alto without ores; at least I think so, and hope nothing worse may be the case. We still see good ores on the upper part of the vein near the "Respaldo Bajo," where you and the Padre took out your ores.

I have been somewhat alarmed about the Barra, but I hope there will ultimately be no cause for this; yet I have thought it right to inform you and the Padre, and have no doubt but that my *express carrier* will in a few days carry better news.

I am, my dear sir,
Yours very truly,
ALEX. FORBFS.

(Endorsed)
B.
ALEX. FORBES,
Mine of Almaden, Nov. 19, 1847.
&
F. No. 19,
J. A. MUNROE.
(Addressed)
SR. D. DIEGO A. FORBES,
Ausente,
Al Sr. PADRE REAL,
Santa Clara.

[No. 5.]

MINE, 24th. Nov., 1847.

For Mr. J. A. FORBES
and
The PADRE REAL,
} Santa Clara:

We have at last found the vein or "Cinta" of ores which we were looking for, so that I have now the pleasure to inform you and the good Padre of our luck as I promised I should do; but I fear the mine will be reduced to this "Cinta," and the great body of it will be "Tessetate Muerto."

But perhaps this Cinta may be wider below than it is above. To see whether this is so or not has been the object of our labors, *since discovering the proper direction of the vein of the whole mine*, which discovery makes everything more plain.

This direction was before *entirely mistaken*, of which and other things, we will have a great deal to talk about when we meet. When Mr. Walkingshaw arrives and takes a look at the mine, I think we shall take a turn to the mission. I expect him to be at Bernal's Rancho this afternoon.

I may say now that it is impossible we can go off the main vein of the mine as it is entirely different from the walls (Respaldos,) they being of hard rock of quite different character, whereas the vein is quite soft and easily distinguished.

All we have to do is to look for the " Cintas " which, in my opinion, will be reduced to one *not very wide.*

A. FORBES.

(Endorsed)
ALEX. FORBES,
Mine of Almaden, Nov. 24, 1847.
No. 4 & F No. 5,
J. A. MUNROE.

N. ALMADEN, 19th Jan., 1848.

MY DDAR SIR:

I am very much obliged to you for your very prompt attention to the business in hand, and return the expediente immediately.

I am much surprised at the result of your assay, and shall try what I have.

It will of course be better to say nothing about it, particularly as I have already written to Monterey that there is no mine, nor does there appear to be any quantity of this kind of stuff. I hope soon to see the Alcalde.

My dear sir, yours truly,
A. FORBES,

(Directed)
JAS. A. FORBES, Esq., &c. &c. &c.,
Santa Clara.

(Endorsed)
" ALEX. FORBES, New Almaden, 19th Jan., 1848. No. 6, No. 6. F. No. 6. J. A. Monroe."

(In Pencil)
Suñol $4\frac{1}{2}$, Sainse $4\frac{1}{2}$, Pouse $4\frac{1}{4}$, Narbaez $4\frac{1}{2}$, Padre 4, Forbes 2.

SEÑOR JUREZ DE PAZ.

Alejandro Forbes à nombre de simismo y de sus consocios dueño de la mina de plata, oro y azogue conocida con el nombre de Santa Clara y ahora llamada Nuevo Almaden y a nombre de la conpañia formada para su laborio y avio de la misma, ante V. como mas haya lugar en derecho expongo que la Ordenanza de mineria en su titulo IX. art. 10, previene que toda mina debe visitarse y examinarse por peritos nombrados por el Juez, à fin de cerciorarse si son trabajados conforme á dicha ordenanza y deseando el que firme cumplir con las leyes a V. como Juez competente (por falta del tribunal á quien le toca enten-

der en la materia) le suplico se sirva de pasar con los testigos de su asistencia a la espresada mina a inspeccionar las obras y labores de ella, ahora en corriente, conforme la ordenanza de la materia; como tambien a reconocer el rumbo y echado de la veta de la enunciada mina a su actual profnndidad con el objeto de reformar y enmendar (pues hay lugar para ello) los terminos de la primera acto de posession, y para corregir tambien cualquiera otra equivocacion que en ella parezca, segun el titulo VIII. art. 11 de la misma ordenza, particmlarmente a decidir el aumento de pertenencias que deben de poseer los dueños de la citada mina, y su habilitador por si mismo y como representante de aquellos, y la cuadra que corresponde a los dichas pertonencias conforme al verdadero echado de la veta.

Por lo que a V. suplico se sirva demanda proveer el presente escrito en los terminos expuestos, y practicadas que sean las diligencias, que se me devuelvan para el debido resguardo y fines que convengan a los interesados, siriendo de admitir esta en papel simple por falta total del sellado en este departmento.

Pueblo de San José, 19 de Enero, 1848.

[TRANSLATION OF THE PRECEDING DOCUMENT.]

TO THE JUSTICE OF THE PEACE.

Alexander Forbes, in the name of himself and his associates, owner of the mine of silver, gold and quicksilver, known by the name of Santa Clara, and now called New Almaden, and in the name of the company formed for the working and furnishing of the mine, before you, as may be most proper in law, represent that the mining Ordinance, in Title IX. Art. 10, provides that every mine ought to be visited and examined by skilful persons named by the judge, for the purpose of ascertaining if they are worked in conformity to said ordinance; and the subscriber desiring to comply with the laws, prays you, as the competent judge (for want of the tribunal to whom it belongs, to judge in the matter) that you will be pleased to go with your assisting witnesses to the said mine to inspect its works and labors now being carried on, in conformity to the ordinance upon the subject; as also to determine the direction and inclination of the vein of the said mine to its present depth for the purpose of reforming and correcting (since there is occasion for it) the boundaries of the former act of possession, and to correct also such other mistakes as may appear in it, according to Title VIII. Art. 11, of the same ordinance, particularly to decide upon the increase of pertinencias which ought to be possessed by the owners of the said mine and its contractor for himself, and as the representative of the former, and the square which corresponds to the said pertenencias, in conformity to the true inclination of the vein.

Wherefore, I beseech you that you will be pleased to have this

writing carried into execution in the terms expressed, and when the proceedings are taken, that they may be returned to me for the just protection and ends which may suit the persons interested, you being pleased to admit this on common paper, from the total want of sealed paper in this department.

Pueblo de San Josè, 19th of January, 1848.

(COPIA) MUY RESERVADO.

Nota de los Documentos que Don. Andres Castillero debera consequir en Mejico.

1. La plena aprobacion y ratificacion por el Gobierno Supremo de todos los actos del Alcalde del Distrito de San José, en la Alta California en la possesion dada por dicho funcionario, de la mina de Azogue ubicada en see jurisdiccion, a Don. Andres Castillero en Diciembre de 1845.

2. Un titulo de concesion absoluta y sin condicion de dos sitios de ganado mayor a Don. Andres Castillero espresando los linderos siguientes.

Por el norte con terrenos del Rancho de San Vicente y los Capitancillos; por el Este, Sur y Oeste con terrenos ó serranias baldias.

3. Las fechas de estos documentos deberan de ser arreglados por Don. Andres: el testimonio de ellos tomado en debida forma y amas cuticados por el Ministro Americano en Mejico y remitido a California ceranto antes.

TEPIC, Mayo 27, de 1849.

(Endorsed)

Copy of memorandum left with Alex.
Forbes for Castillero in Tepic, May
27, 1849. I. F. No. 21.

J. A. MONROE.

[TRANSLATION OF THE PRECEDING DOCUMENT.]

(Copy) VERY PRIVATE.

Memorandum of the Documents which Don Andres Castillero will have to procure in Mexico.

1st. The full approbation and ratification by the Supreme Government of all the acts of the Alcalde of the District of San Jose, in Upper California—in the possession given by the said officer of the quicksilver mine situated in his jurisdiction, to Don Andres Castillero in December, 1845.

2d. An absolute and unconditional title of two leagues of land to Don Andres Castillero, specifying the following boundaries: On the north by the lands of the Rancho of San Vicento and Los Capitancillos, on the East. South and West by vacant lands or vacant highlands.

3d. The dates of these documents will have to be arranged by Don Andres. The testimony of them taken in due form, and besides certified to by the American Minister in Mexico and transmitted to California as soon as possible.

TEPIC, May 27, 1849.

(Endorsed)

Copy of memorandum left with Alex.
Forbes for Castillero, in Tepic, May
27, 1849.

NEW ALMADEN, 1st FEBRUARY, [1848.]

JAMES A. FORBES ESQ.,

MY DEAR SIR:

I received an Express last evening giving me all the news from Mexico, and informing me of the Natalia being about to sail for the Mexican coast and by which I have taken the opportunity to forward letters to Mexico.

I have had the imprudence to open your despatch. They told me that it contained newspapers and as I knew Genl. Urillas hand, and it being a public letter and that perhaps it might contain letters for me which I could not get if sent on in time to allow me to write (if so required) by the Natalia; for all these reasons I broke open the packet. But although I know you will not be offended at what I have done, yet I would rather not have done so, as I think nothing whatever can justify one in opening directed letters to others without their previous sanction.

You will find by the Alcanal of Guada and the Iris what is going on in Mexico, and what my friends in Monterey write is to the same purpose. The present party Péna y Péna, Herrera, Otero, Bustamente & Co., are by far the most respectable party in the Republic and there is a better chance for their doing something better either for peace or war than ever that most infamous rascal, Santa Ana, and his party would have done. Now that they have got rid of that blackguard, there are better prospects than before, *but* the present party want energy, and the third party, (the Puros Democrats,) will most probably upset them, when greater confusion than ever will ensue.

You will find that the American President is getting more courage in prosecuting the war than before and has recalled Mr. Trist, desiring the Mexicans to send to Washington if they wanted peace. I have as you know always thought that on their getting possession of a great part of Mexico and their volunteers covering *themselves with glory* the war would become popular, and they would *go ahead* and possess themselves of the whole of the Mexican Republic—particularly when they have got over the fears of European interference.

You may now take my opinion a little further and set down Mexico as already virtually a part and portion of the *Union* alias the U. S.

It is said Genl. Yañez goes to Tepic with 4,000 men, he is a superior kind of man and a most intimate friend of ours, so that our interests there will be protected in as far as depends upon him.

As Asconas letter gives a very good summary of the news, I send it for your perusal.

This being a rainy day and being desirous to communicate what I know in the shape of news, I inflict upon you this long epistle.

I am my dear sir, yours very truly,

ALEX. FORBES.

Please explain all this news to my good friend the Padre.

You will see by Genl. Urillers list what a crash there has been in England. None of our friends are in this black list. Liverpool and Glasgow seem to suffer most.

I am my dear sir, yours &c.,

A. F.

(Addressed)

JAMES A. FORBES ESQ., &c. &c. &c.,
Santa Clara.

(Endorsed)

ALEX. FORBES, New Almaden, 1st Feb., 1848, No. 7, F. No. 8, J. A. Monroe.

TEPIC, 11th April, 1849.

JAS. ALEX. FORBES, ESQ., San Francisco.

MY DEAR SIR:

We beg leave to refer you to Mr. Alex. Forbes, letter of the 9th inst., respecting the arrangement of the affairs of the Mine of New Almaden, and beg to recommend that negociation to your best care and management, until we can forward the necessary instructions for your government. You may now rely on this Mine being worked to the utmost of its capabilities of production, and sale of quicksilver on the arrival of the apparatus, and we hope to make up for the delay, which circumstances have hitherto prevented this important concern from being productive. We shall soon have the pleasure of sending you a list of the company of which the "Habilitadores" are composed. The House of Jecker, Torre & Co., of Mexico and Mazatlan, and our own are chiefly interested, and as Don Ysidoro de la Torre has gone to Europe, he will concert with Mr. Barron everything which can tend to the successful developement of this enterprise.

We are, dear sir,

Your most obedient servants,

BARRON, FORBES & CO.

(Endorsed)

Barron, Forbes & Co. *C*
relative to Habilitacion,
of New Almaden.
April, 11th, '49.
F. No. 18. J. A. Monroe.

Tepic, 20th May, 1849.

James A. Forbes, Esq.
Sir:

From certain circumstances which you have communicated to us, it may be necessary to purchase some lands in the vicinity of the Mine and Hacienda, of New Almaden, in California. We hereby empower you to make such puschases as may be necessary to the secure possession of this Mine and Hacienda, or to effect such other arrangements as you may deem necessary for that purpose. The prices of such purchase not to exceed five thousand dollars, without consulting with us upon the subject.

We are, sir,
Your most obedient servants,
BARRON, FORBES & CO.

(Addressed)

James A. Forbes, Esq.,
California.

(Endorsed)

Barron, Forbes & Co.,
authorizing the purchases of land, J. & F. No. 20.
J. A. Monroe.

(Copy) Private.

San Francisco, Oct. 28th, 1849.

William Forbes, Esq., Tepic.
My Dear Sir:

I have been detained in this place until the present moment, occupied in completing the arrangements, explained to B. F. & Co., under the date of yesterday, having raised the sum of \$27,180 $\frac{67}{100}$ dollars, from Probst S. & Co. and Webster alone.

I must again call your attention to the importance of my suggestions, relative to the perfecting the title of the Mine of New Almaden, and without entering now into the particulars, already explained to yourself and to Mr. Alex. Forbes, verbally, I desire only to impress upon your mind the vast importance of securing from the Supreme Government of Mexico the documents comprised in the memorandum, left with Mr. Alex. Forbes, when I was in Tepic, for Castillero. By my other letters of this conveyance, you will be informed of all the particulars of the transactions that have occurred recently in the affairs of the Mine, and you will see the risk in which this valuable property is placed by the delay that has occurred in the acquisition of the documents referred to.

I remain, my dear sir,
Yours sincerely,
JAMES ALEX. FORBES.

(Endorsed)
Copy letter to Wm. Forbes, Private,
from San Francisco, Oct. 28th, 1849.
F. No. 23. J. A. MONROE.

(Private.) COPY.

SANTA CLARA, Oct. 30th, 1849.

ALEXANDER FORBES, ESQ.,
MY DEAR SIR :

By my letters to yourself and to B. F. & Co., from the 22d to this day, you will be informed of the great danger in which the mine of New Almaden has been thrown, and the disagreeable and vexatious proceedings caused me by Mr. Walkinshaw and his associates in their denunciation of the mine for abandonment; you will, however, have the satisfaction of knowing also that I am to be reinstated in the possession of that property, both Mine and Hacienda in two or three days hence by judicial process.

Although I feel much gratified at my successful defence of the case, yet I am extremely apprehensive of further difficulties in the event that those parties should succeed in purchasing the part of the land of the Berreyesas that they have offered to purchase, (which embraces the mine and hacienda,) for twenty-five thousand dollars—just five times the amount you all authorized me to pay for the same identical tract.

Figure to yourself the position of the affair of the mine, if I do not strike boldly at our opponents by purchasing the land at a higher price than they have offered to pay for it, and by thus frustrating their plans secure the mine and hacienda from further risk.

You will now readily perceive the great importance of my advice to you to purchase a part both of the lands of Cook and of the Berreyesas. You were of the opinion that this measure would not be necessary in view of the supposed facility of getting the title to the mine perfected in Mexico.

It is now more than five months since it was decided that Castillero should procure the necessary documents in that city, and that they should be sent to me as soon as possible. On the one hand, I depend upon the precarious and illegal possession of the mine, granted by the Alcalde of this District to Castillero, who was in reality the Judge of the quantity of land given by the Alcalde, and on the other side I am attacked by the purchasers of the same land, declared by Castillero himself to comprise the mine. In the absence of the all important document of the ratification of the possession so given, I am compelled to purchase the part of the land of the Berreyesas which Walkinshaw and his party have offered to purchase, and you must not be surprised if I shall go far beyond the price that they have offered, because it is the only mode of securing the title to the mine and hacienda, for if Castillero should fail in getting the desired documents from Mexico, it is the sole mode of safety of this property.

I shall endeavor to procrastinate as far as possible this purchase, and, moreover, to frustrate all the plans of Walkinshaw and his associates for accomplishing *their* purchase, and I do entrêat you to use every effort to send me the document of the ratification of possession of the mine, and the grant of land thereon, at the very earliest opportunity, properly authenticated and certified as explained by me when I was in Tepic. In one of my precited letters I requested you to send me a certified power of attorney from B. F. & Co. to you, authorizing you as the representative of the Compañia de Abio to appoint other attornies in fact under you.

The object of this is to be able to refute the allegations of the lawyer of Walkinshaw that you had no power to authorize me to take charge of the mine.

I remain, my dear sir,
Yours truly,
JAS. ALEX. FORBES.

(Endorsed)
Copy of a letter to Alex. Forbes.
Private. Oct. 28, '49.
H. F. No. 22. J. A. MONROE.

TEPIC, 30th November, 1849.

JAMES A. FORBES, ESQ., Santa Clara,
DEAR SIR:

We had the pleasure to write you on the 13th inst. by the steamer "Oregon," the chief object of which was to enclose a notarial copy of the grant of land by the Mexican Government to Castillero, and which we hope has come safe to hand.

We have perused with much interest and attention the whole of your letters and documents received by the steamers, the "California" and "Panama," and we beg you will excuse us from minutely entering in to a reply to those valuable and important papers. Suffice it to say that we not only opprove of your proceedings, but have to give you our most sincere thanks for the most energetic and able conduct in the whole affair, and we have to request that you will not hesitate continuing to take such steps as may seem to you fit for securing the mine from all attempts made by evil minded persons to impede its being freely worked for its legitimate owners.

We are glad to find that you had not been obliged to purchase Berriesa's land. This is certainly a most important point, and we trust that the document sent will be of great consequence in that respect; but you will of course take care that no risk is run, and you will do in this affair as your best judgment shall direct you, keeping in view that at all hazards and at whatever cost the property of the mine must be secured. Castillero, we expect, will soon be here from Lower California, and if anything can be done in Mexico, he is the fittest person to procure what may be wanted. It is incredible that Mr. Walkinshaw should lend himself to such proceedings when he considered the very large capital invested in this enterprise, and when he well knows that by the mining laws no "denuncio" could possibly be heard under the circumstances in which this mine has been occupied. We trust, however, that these vile machinations will be by your active proceedings be put an end to.

We hope you will, by the time this reaches you, have got up at least a part of the apparatus, and that some of it will be soon at work. The price of quicksilver here still keeps up, and the supply as yet not abundant. Every body writes of the very high price it bears in California, and we have no doubt you will in a short time be able to supply the demand and to send us the surplus to San Blas. Trusting to the continuance of your best exertions in behalf of all concerned in the mine of New Almaden,

We are, dear sir,
Your most ob't servts,
BARRON, FORBES & CO.

(Endorsed)

Barron, Forbes & Co.,
30th Nov. 1849.
No. 16.
& F. No. 16. J. A. Monroe.

Tepic, 30th Nov., 1849.

James A. Forbes, Esq., Santa Clara.

My Dear Sir:

I have received your most valuable letters by the two last steamers, "California" and "Panama," the latest dates being up to the 13th of the present month, and which gives the agreeable notice of Walkinshaw's most villainous proceedings having been upset. I hope you will forgive me for not entering minutely into all the proceedings. But I can assure you that we all feel the obligation we owe to you for the very able and decisive measures you have adopted in the whole of this affair, and I recommend to you to proceed without fear of disapproval or waiting for instructions, in taking such measures as shall preserve this valuable "negociacion" from any risk from those unprincipled claimants, who have lately given you so much trouble, or from any other proceedings which may take place; being sure that such proceedings will be sanctioned by the company. We are quite of opinion with you that we should not be lulled into security from the belief, that other proceedings will not be resorted to, and that principle will be acted upon and every support from this will be given to what you may point out as necessary.

As you will not, I hope, have now to employ the large sum you expected to do in the purchase of the Berriesa's lands, you will have a large amount of funds for the object of the mines. All the drafts and orders for the value of gold have been honored.

We are glad to find that Mr. Probst has been so active in assisting you, and it gives me, in particular, much pleasure to find such a good understanding between you. I most earnestly hope the same friendship will take place between you and Dr. Tobin.

Notwithstanding the many difficulties you must have in transporting the cargo of the Vicar of Bray, yet I hope a part of the apparatus will soon be got up to supply the demand of the Placeres as well as to send us some here. It is of much importance to realize as much as possible of the large capital which now lies in the mine laid out by the Habilitadores, and to secure to the owners of Barrs something *certain* against an evil day which may sometime or other overtake us.

In new countries nothing is very certain, and I for one, (and in which I am sure you will agree with me,) am most desirous to be in possession, and to see others in possession of at least a part of the riches of this mine, which has cost me and others so much thought and so much labor. This, I as an individual, and for the good of all, beg leave to impress strongly upon your attention.

I am, my dear sir,
Yours, very sincerely,
ALEX. FORBES.

(Endorsed)
No. 8. F. No. 7. J. A. Monroe.

VERY PRIVATE.

TEPIC, 1st Dec., 1849.

JAMES A. FORBES, Esq., Santa Clara.
MY DEAR SIR:

The document sent up to you by the last steamer for the grant of lands to D. Andres Castillero, was, by mistake, not the one meant to be sent. I find now that the proper one was registered by me in Monterey, and the original deposited there.

The one sent you was directed at foot to the Governor of California, and the one deposited at Monterey was directed to D. Andres Castillero. The difference is, that by one the delivery by the Governor was perhaps necessary to make the grant valid, whereas the other being addressed directly to D. Andres, did not require that formality, nor was any other proceeding necessary, thus making it a better document than the greater part of the other titles for lands in California. I fear you may have made use of the notarial copy sent. If not, you will of course apply for the copy of the one at Monterey, I however, have hopes that your well known cleverness will have enabled you to find out this mistake, which would shew itself, if you had applied for the document from Monterey. And at all events, you may be enabled to withdraw the one sent, and substitute the other; either, however, I take to be as good as the usual California titles, few of which have been officially delivered or sanctioned by the local authorities.

Another difficulty however, occurs. A document was made out in the City of Mexico when I purchased the Bars from Castillero, for the purpose of securing his consent and approval of the contract of Habilitacion, in this document is also inserted the grant of the two sitios, being an exact copy of what has been sent you, and directed to the *Governor*. All this will show you how that matter stands. And as I think this document may be of use to you, I send a copy of the whole, leaving you to your own good judgment, to make such use of this document, and of what I communicate as you shall think proper.

I shall send the document alluded to in a separate cover to Probst, Smith & Co. I am, my dear sir,

Yours, very truly,

ALEX. FORBES.

There is an approval of the Habilitacion in all the documents of the sale of the other Bars.

(Endorsed) No. 9. F. No. 9. J. A. Monroe.

(Private) Tepic, 7th Jan'y, 1850.

James A. Forbes, Esq., Santa Clara.

My Dear Sir:

I have received by Acapulco and Mexico along with your other correspondence your private letters to me, of the 25th and 28th of November, and beg to refer you to the letters of B. F. & Co. on the business of the Mine.

I am very sorry, indeed, to see that there is likely to be a difference between you and Dr. Tobin. This is a circumstance which may lead to very bad consequences; and it is strange that Tobin should throw obstacles in the way, when he sees you surrounded with so many, already, and which can only tend to lessen his own profits.

It is clearly to be understood that no verbal agreement was made here with any one, nor any promises given which is not consistent with the contract, as it is written. His brother never was engaged; on the contrary he told me that his brother went to see what could be done, in California, and if nothing offered, he would send him back to take our portraits. This might have been said as a joke, but shows that no employment at the Mine was intended for him.

No maintenance for himself, (Dr. T.) or family, was ever intended. He looked out here for a cook, and took up one for that purpose. His new contract is much more advantageous than his former one with me, as he has his per centage on the whole $\frac{2}{3}$ without limitation. I have read over this second contract with care, and it appears to me quite clear in respect to his charge at the Haciend.

Art. 3. "The aforesaid, James Tobin, agrees to direct the operations of the extraction of the Quicksilver to the best of his abilities, and is to have the said operations under his exclusive management."

This does not show that he shall have the general management of the Hacienda.

One of the causes for altering the contract, and for cancelling the limitation of his profits was, to make the contract less onerous as to the supply of ores, people, and necessaries, which you will perceive by the 4th Article. You are only bound to supply "*as amply as circumstances will allow*," whereas, by the the original contract with me, it was obligatory on us to supply all these which he might require.

This, in the present state of things is I consider of much consequence.

This is my opinion of what Mr. Tobin has a *right* to demand, but I am sure you will not stand on mere points of right, or risk the interests of negociation for trifling pretentions which may be put forth. Much may be sacrificed in principle to conciliate a troublesome person, and I still most earnestly hope that your prudence will enable you to keep up cordiality between you. I shall write my opinion to Dr. Tobin, and give him my strongest advice to lay aside all vexatious pretentions, and enjoin him to proceed in good will and amity, which can only tend to his own interests, and those concerned in the Mine. I hope he will listen to my advice.

The amount of capital is getting to be enormous, and the company are beginning to get astonished. If, however, you can once get under way, all will be well, if you could only get a couple of cylinders up in any temporary way. They would supply the placers.

Whenever you have more than is wanted, for that you will, of course, send it down here, more or less, by the steamer.

Strange as it appears to me a Mexican merchant, "Lizardo," sends up 136 flasks by this steamer, and between 2 and 300 go by next conveyance. It is shipped by B. F. & Co., as agents. We have not one bottle here; but there are still of the California Quicksilver in Sonora.

I am glad you have taken young Mr. Thom into your house; please remember me to him, as also to Mrs. Forbes, and your family.

I am, my dear sir, &c. Yours, truly,

A. FORBES.

Webster will go up with a Pacatillo, by this steamer, if he can get his things on board. If you can do anything for him it will oblige me.

A. F.

By the tenor of your letters I have hopes that you will have got rid of the villainous proceedings of Walkinshaw and his party.

I hope the document, which now goes up, (the Habilitacion, &c.,) will be useful. Castillero is still somewhere in Lower California. We have not heard from him, but he must be somewhere about La Paz.

Mr. Spence, of Monterey, writes me of date the 22d Nov., that he had advanced to Mr. Walkinshaw about $2,000, and informs me that although he had written him several times, he had received no answer, and that neither principal nor interest had been paid. I have advised Mr. Spence to inquire of you respecting this transaction.

A. F.

I hope Mr. Probst with your assistance, if necessary, will push the claim of the Mazatlan debt against Mr. Walkinshaw.

I have a letter from Alden, in which he speaks of Walkinshaw in strong terms. I hope you will keep poor Alden in your service; he speaks of his former services not being properly paid for, and of his accounts not being settled.

(Endorsed) F. No. 10. J. A. MONROE.

VERY PRIVATE.

TEPIC, Feb. 3d, 1850.

JAMES A. FORBES ESQ., Santa Clara,
MY DEAR SIR:

I had the pleasure to write you of date of the 7th of January, which went by last month's steamer to which I refer. I have since received your letters by Reyes, dated the 27th and 31st of Dec., and 8th of Jan. I shall not go minutely into the whole valuable information you gave me, nor into the statements so very interesting to myself and those concerned in the mine of New Almaden. By those communications I have every reason to believe that by your indefatigable and energetic proceedings you will be enabled to defeat all the vile attempts which have been made to rob the legitimate owners of their property.

The conduct of Dr. Tobin is inexplicable, but I think I can perceive that you are somewhat of the opinion that he may be heard and protected by the Company, but I will at once put you right upon that point and assure you such will not be the case. All here are most indignant at his conduct. You must and will be supported, and all I wish and hope for on your part is that you act in a manner towards him which may enable you if possible to avoid a rupture and contentions which may lead to bad results. You say that Dr. Tobin comes down in the next steamer. If so he will be here in a few days. This I shall not be sorry for. The matter would then be soon settled. He would most assuredly not be asked to return nor even permitted. He has no right to desert his post, and I hope you have not given him leave of absence. I have no doubt but that you could with Gay, Alden and the other person you mentioned do well enough for a time and easily put up a part of the apparatus and work it until a proper scientific person can be procured and sent up to you.

It so happens that almost the whole of the "Acionistas" and "Aviadores" of the mine will be here in a few days. Mr. Barron is now here and is attorney for those absent. La Tone comes here to visit Mr. B. Castillero has returned and is also here, so am I and William Forbes. This leaves out only the four California Bars, and I think I may venture to act for you if necessary as you verbally told me I might. This will give us power to deal with Dr. Tobin if he comes this way and to regulate any other matters which may be thought necessary. For my own part, I have no power as you know, the management being in the hands of others, and therefore I beg you will take all I say as purely *private and confidential*, without attaching any authority to my suggestions. But of course as I am a proprietor and in the confidence of the managers and other proprietors my opinions and advice may be worth attending to and be of some use to yourself as well as to them. I shall continue to write you as long as I remain here and will be most happy at all times to hear from you.

I wrote by the last packet to Dr. Tobin as a friend, and attempted to conciliate him in a mild way, perhaps he makes too much of this letter, and I think it better to send you a copy to enable you to see exactly what I have said to him. His leagueing himself with Mr. Walkingshaw is too bad. Reyes has told me of all that has passed, which is almost incredible. I am glad to find that you are peaceably to get rid of Mr. W. Mr. Tobin has sent a plan of his proposed establishment, this you must on no account allow to be put in execution. You are aware that it would never do to go about large magnificent works at once, particularly as you know the whole must be at the cost of the "Aviadores" and left for the proprietors at the end of the contract. You are acting for the Aviadores, and it is your duty to restrict the works within reasonable bounds, and to only erect temporary and absolutely necessary works until some funds shall be realized from the mine. However desirous that it may be that the works should be set up by Dr. Tobin. Yet if he will not go on in good faith, or if he attempts to injure the company or refuses to obey your just commands, and resists your authority, or stops or impedes the works, and thereby breaking his contract I think he may be discharged by *you*, always taking care that you have a very clear case and nothing left in doubt to cause litigation. But this is only my private opinion. I have no authority to empower you to do so, but it would no doubt be approved by the Company, none of whom look favorably on the Doctor's proceedings. The most effectual and safe way however would be his coming here without leave. He has not written by last opportunity, nor will he be written to by this Steamer.

I have every reason to believe that the documents you mention will be *found* in the City of Mexico, and as Mr. Castillero will return there they will no doubt be procured, but we are at some loss to know what is exactly wanted, and I beg you will, by next steamer, give a sketch of (or *for* J. A. M.) the documents you allude to, particularly a description of the limits of the grant. I think you must not have received the information sent you of the existence of the grant of the two sitios directly to Castillero, and registered in Monterey, nor am I sure if this will mend the matter. In a few days, however, we will again hear from you and act accordingly.

One last resort, I will mention to you, and it is with great repugnance that I do so, which is, that if the Berreyesas were unreasonable and untractable, or insist on the extension of their lands to our hacienda, the company would be justified in promoting the invalidation of their own title to their Rancho.

If they make it over to any one else, and particularly to our enemies, certainly this course must be pursued. If no opposition or disclosures are made, and if the American government turn out to be liberal in conceding the Ranchos to the present holders, the Berryesas and others may be left in possession, but if active measures were taken by an adverse party, many of the titles would be worthless, and I have reason to think, from what came to our knowledge when I was in California, the title of the Berryesas' is not of the best. This, I throw out for your consideration, and I should think these people would do themselves no good in opposing you.

We think at present that it may be the best place to get an authenticated copy of the approval of the Mexican government of the grant of three thousand varas given by the Alcalde on giving possession of the mine. As a doubt may be started as to whether the Alcalde acting as the "Júez de Mineria," had a right to make this grant, yet if approved of the government of Mexico before the possession of the country by the Americans, there could be no doubt on the subject. This takes in our hacienda, and unless opposed by the Berryesas would, I should think, settle the question.

Castillero says, such approval was given, and that on his arrival in Mexico, he will procure a judicial copy of it. This is the plan we shall adopt if we hear nothing from you to alter this resolution. Since writing the foregoing, I have looked over your private letter to Wm. Forbes, dated 18th October, and find you state the limits or boundaries, as follows:

" The boundaries must be expressed as joining on the north and northwest by lands of the Ranchos de San Vincente and de los Capitancillos. and on the east, south and west, by Seraina or 'tierras boldias.' "

Castillero is not certain of accomplishing this latter plan, and thinks the first, that is, the three thousand varas the best.

There goes up by this steamer another bill against Mr. Walkinshaw and in favor of B. F. & Co., for $1,000, so that Probst, Smith & Co. have in our favor and against him:

By A. Forbes, accepted,	$1,758
B. F. & Co., about	10,000
id. bill,	1,000
In all,	$12,758

I send you five Altas, newspapers.

I am, my dear sir,
Yours, very truly,
ALEX. FORBES.

(Endorsed)
Private. A. F., 3d Feb., 1850. Answered 26th Feb. No. 11. F. No. 11. J. A. Monroe.

(Copy) PRIVATE.

NEW ALMADEN, Feb. 26, 1850.

ALEXANDER FORBES, ESQ.,
MY DEAR SIR:

Your favor of the 3d instant came duly to hand, and in answer to that part of it relating to the documents sent up to me in Nov., serving as titles to the property I will again address you. " Por seperado."

I really did have more faith in the tact and ability of Castillero, to perceive the important objects set forth in my memorandum of what was to be done months ago in Mexico by that eccentric individual, and that with the powerful influence he was to have exercised, by the efficient aid that was to be lent him, he would meet with no obstacle to the attainment of the important documents explained in that memorandum. But Castillero has deceived himself for he thought that boundaries were not necessary, as I shall presently show you. He succeeded in obtaining the grant of two sitios to himself in the mining possession in *Santa Clara* while that very act of possession declares that the mine is situated on the lands of one Jose R. Berreyesa, five leagues distant from Santa Clara, and you will at once perceive that such a discrepancy would not fail to attract the attention of the U. S. Land Commissioners and to put the case of the mine in great risk in the judicial ordeal to which its title will be subjected.

Without troubling you with what I have so many times written and explained to you verbally on the importance of the acquisition of the *document*, I will only say now what it *must* be and it is this :

1st. A full and complete ratification of all the acts of the Alcalde of this jurisdiction in the possession of the mine.

2d. A full and unconditional grant to Castillero of two sitios of land covering that mining possession, expressing the boundaries stated by me in the memorandum I left with you in Tepic. Both these documents to be of the proper date, and placed in the proper Govermental custody in Mexico.

And 3d. The necessary certified copies of them, duly authenticated by the American Minister in that Capital, taken and sent to me at the earliest possible moment.

You will receive my advice of the 19th inst. regarding my views of not supplying W. with any quicksilver.

Yours sincerely,
JAS. ALEX. FORBES.

(Endorsed)

Copy of letter to A. F.
Private,
IV. Feb. 26, 1850, F. No. 24.
J. A. MONROE.

TEPIC, 2d March, 1850.

JAMES A. FORBES, ESQ., New Almaden.
DEAR SIR :

We duly received your letters up to the 29th of January, per steamer Panama, which have had our best attention, and as our friend, Dn Isidoro de la Torre, of Mazatlan, has been appointed, and has consented to proceed by this steamer to California, with full powers to act in behalf of all concerned, it is needless to enter into any particulars respecting the various matters contained in your letters, as you will be enabled personally to communicate your views to him, and arrange everything in the best manner, possible. Mr. De la Torre came to Tepic to meet Mr. Barron, and the others concerned in this negotiation, and it was deemed necessary that some of the partners in the "Habilitacion" should proceed to New Almaden, in order to consult personally with you, and to arrange respecting the future operations of this enterprise, and Mr. De la Torre has been prevailed upon, at much inconvenience to himself to undertake the present charge.

We are sure that no one could be named more agreeable to you than Mr. De la Torre, and have no doubt but that his presence will be most useful in sanctioning and arranging a plan of future operations, and of assisting in adjusting any difficulties which now exist, particularly as he has the full authority of the association to act, as to him shall appear necessary. Mr. De la Torre takes up with him Dr.

Tobin in the hopes that he will resume his labors, and act in conformity with his duty.

Mr. Barron and Don Andres Castillero are about to proceed to City of Mexico, and will attend to what you have recommended.

Soliciting your kind attentions to our friend, Mr. De la Torre,
We are, dear sir,
Your most obedient servants,
BARRON, FORBES & CO.

(Endorsed)
No. 12, & No. 12. J. A. Monroe.

Tepic, 16th March, 1850.

My Dear Sir:

The Oregon's letters have just come up and I give this a chance of reaching San Blas before the arrival of the Panama Steamer. Mr. Barron and Castillero have gone off to Mexico, and I wrote them today respecting the Document you know of, which if possible will be procured. The news of your having got up four Cylinders gives us all much joy, and I gave the good news to my friends. M. De la Torre dont expect this unless he knows by the Steamer which touched at Mazatlan. You will perhaps see him and Dr. Tobin before this reaches you, who both go by this conveyance. *Let us have Quicksilver* and all will be well.

I am most happy to hear you have found an abundant mine of Limestone, this is of much importance. Your official letter about the vessel will be forwarded to the Foreign Office.

In great haste, yours truly,
A. FORBES.

(Endorsed)
Alex. Forbes, March 11th.
No. 14. F. No. 14,
J. A. Monroe.

Tepic, 7th April, 1850.

James A. Forbes, Esq.,
N. Almaden,
My Dear Sir:

I wrote you by the California, dated 23d February, and since then have received by the "Oregon" yours of the 19th of that month. I was very happy to hear that you had got up some of the Cylinders, and trust that you are at this time distilling Quicksilver. I hope Dr. Tobin will now attend without any difficulty to the superintendence of the operators, and am sure you will on your part do everything in your power to promote harmony and forward the interests of all concerned. You will, I know, find great relief and pleasure by the arrival of your friend Mr. De la Torre. He will, during his stay, take much responsibility off your shoulders, and from his decision and conciliatory disposition, assist in smoothing many of the difficulties which surround you. Mr. Barron and Castillero have arrived in Mexico, and have every prospect of finding the documents yon are aware of, and which will of course be forwarded as soon as possible.

I am, my Dear Sir,
Yours very truly,
ALEX. FORBES.

I forward a letter received from Mr. Murray of the Foreign Office,

(Addressed)
JAMES A. FORBES, Esq.,
New Almaden.

(Endorsed)
ALEX. FORBES, 7th April 1850.
Answd. 28th. No. 13. F. No. 13,
J.A. MONROE.

(Private.) TEPIC, 6th June, 1850.

JAMES A. FORBES, ESQ., Santa Clara,
MY DEAR SIR :

I had the pleasure to receive your letter of the 28th of April, by the steamer, but of course not in time to reply by the one from Panama, which arrived the day after that from San Francisco.

I remark what you say of Dr. Tobin and the cylinders, which has caused me some uneasiness, and I wait with anxiety to know how those he is putting up himself will succeed, which we expect to do by the steamer which ought to arrive at San Blas on the 10th inst.

I find that it has been deemed necessary to appoint an American citizen as manager of the mine, and am most happy to know that this meets with your approbation. This approval on your part I am quite sure will be estimated as it deserves, and shows to those interested in this enterprise that you do not hesitate to sacrifice your own private interests for the general benefit of the concern. For my own part, I feel most grateful and highly obliged, and the members of the house of Barron, Forbes & Co. express strongly the same feeling.

We are all convinced that whoever may be in the management of the New Almaden will receive the assistance of your knowledge and experience, and the company and proprietors cannot fail to be sensible of your services. It gives me great pleasure to hear from yourself, as well as from Mr. La Torre, that the closest friendship had existed between you, and that both were animated by the same desire of making the mine productive. I had the pleasure to know Mr. Halleck at Monterey, and I think a better selection could not have been made. I think he is a gentleman with whom you will be much satisfied as a manager of the mine, and who I have no doubt will be glad to avail himself of your experience in whatever may be new to him.

I am very happy to hear that Mr. Walkinshaw has been settled with, and that all annoyance from that or any other quarter has ceased.

I shall avoid saying anything respecting the Berreyesa affair till the letters by the steamer come to hand, which will no doubt confirm the arrangement between them and Mr. La Torre.

I am, my dear sir,
Yours truly,
A FORBES.

(Endorsed) No. 15.
F. No. 15. J. A. MONROE.

TEPIC, 10th January, 1851.

J. A. FORBES, ESQ., Santa Clara,
MY DEAR SIR :

I was duly favored with your obliging letters of the 12th and 29th of Nov., in which you mention that I had stated some disappointment by your not writing, and allude to some other matters I have no recollection of. I have always reckoned upon you as a friend, and am well convinced that you have every disposition to promote the interests of the mining negotiation as much as in your power, which William Barron confirms in his late letters to the house.

We have nothing to fear from lawyer Jones, should he come here ; but I understand he has gone to the Sandwich Islands, and is likely to make a journey to the other world. Mr. Barron has caused a most minute examination to be made in the archives in the city of Mexico, the result of which has been that neither Alvarado nor Micheltorena were authorized to grant titles for lands in California, nor does there appear to have been any approval or confirmation of such grants as they took upon themselves to grant—so that the title of the Berreyesa's land, either by Alvarado or by Micheltorena, if opposition is made, is valueless.

This being the case, few of the California titles would be good, if undermined by the vigorous application of the Mexican law. Mr. Barron has procured documents to confirm this view of the case, but we have resolved not to make use of such documents, except in our own defence, as we do not wish to injure any one ; but in the case of the Berreyesas we are compelled to use all means in our power to counteract their proceedings, or those of their abettors, if they persist in their late proceedings.

If it was not that I am an interested party, I would recommend to them to secure their Rancho by silence, for I am well assured that by adopting hostile measures against us they may lose it altogether. The Rothschilds have a large quantity of quicksilver on hand, and the miners thought that by competition between them and New Almaden it might come down greatly in price, and kept off from purchasing, but an agreement has been come to between both parties, by which this competition is done away with, and the price will be maintained at a fair rate.

In consequence, however, of the expectation of the miners, few sales have been made, and little of the proceeds of the sales realized; but from the arrangement alluded to, it is hoped that the sales will soon be considerable. You will find by B. F. & Co.'s letter that your wishes have been complied with in debiting you with the $1700 in the account of your share of the sales of quicksilver.

With best respects to Mrs. Forbes and your family,

I am, my dear sir,
Yours very truly,
ALEX. FORBES.

(Addressed)

James A. Forbes,
Santa Clara,
California.

(Endorsed)

Alex. Forbes, Jan. 10th, 1851.
No. 17, and F. No. 17. J. A. Monroe.

Memorandum of Documents contained in this box.

Sixteen letters from Alexander Forbes to J. A. Forbes, numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 13, 6, 14, 15, 17 and one marked B.

Three letters from Barron, Forbes & Co., to J. A. Forbes numbered 12, 16 and marked C.

All the above in English.

Three copies of letters from J. A. Forbes, marked II. III and IV, in English.

One copy of a memorandum in the Spanish language, marked I.

One letter from Barron, Forbes & Co., J. San Francisco March 3, 1857.

Jas. Alex. Forbes.

Also a copy of petition from Alex. Forbes, accompanied by a sketch of pertenencias of which the possession was given on the 19th of Jan., 1848, by Alcalde of San José.

(Endorsed)

List of documents contained in this box, F. No. 27.

J. A. Monroe.

I, John A. Monroe, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the writings annexed to this certificate are full, true and correct copies of their respective originals or what purport to be their originals of the papers produced in Court by B. Davidson, Esq., on the 28th day of November, A. D. 1857, in obedience to a subpœna "duces tecum," duly issued to the said Davidson, and that I have made the copies of the same in obedience to an order of the said Court.

{ SEAL. } In testimony whereof I have hereunto set my hand and affixed the seal of the Court, this 7th day of December, A. D. 1857.

JNO. A. MONROE, Clerk.

James Alexander Forbes when examined on the 14th Dec., as witness in this case, testified that he is the James Alexander Forbes mentioned in the preceding letters; that he received the letters addressed to him; knows the handwriting of the parties whose names are thereto signed; knows the signatures to be genuine, and wrote and despatched or delivered at the time they bear date letters or papers of which copies bearing his signature are given in this collection. From 1846 till 1857, and he (James Alexander Forbes,) and Barron, Forbes & Co., (of which firm Alexander Forbes was a member,) were or claimed to be partners of the mine.

[PRICE, FIFTY CENTS, POSTPAID.

6

HE PUBLIC LANDS

OF CALIFORNIA.

U. S. LAND LAWS,

For Preemption of Homesteads, Etc.

MAP of CALIFORNIA & NEVADA,

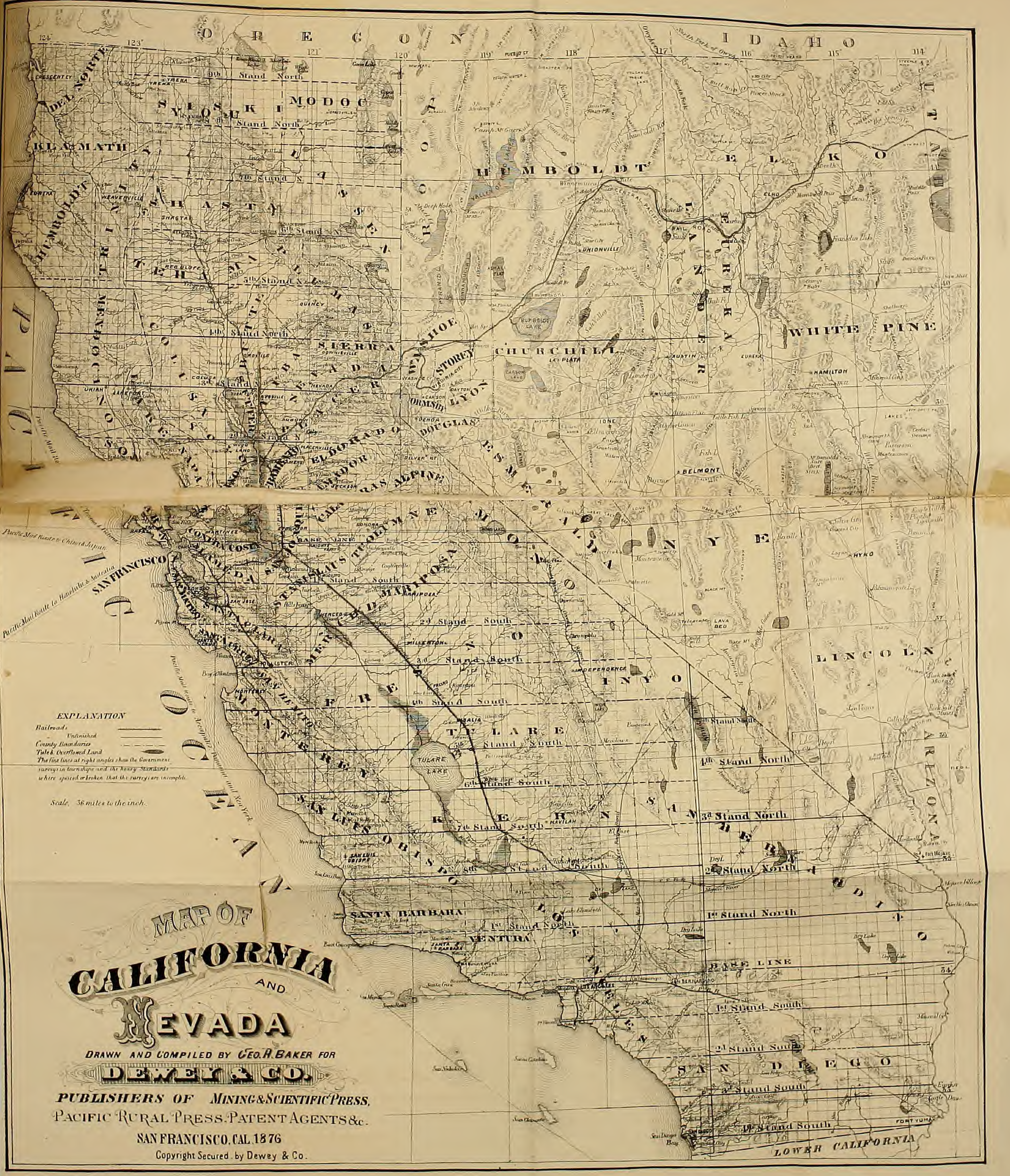
TOGETHER WITH OTHER VALUABLE

Information for Settlers and Preemptors,

A statement of the Resources and Products of
each County, and facts of general interest
in regard to the chief industries
of the State.

[Compiled from Official Sources by H. M. Van ARMAN.]

Published by DEWEY & CO.,
SAN FRANCISCO, CAL.
1876.



O R E G O N
I D A H O
U T A H
A R I Z O N A
LOWER CALIFORNIA
PACIFIC OCEAN
124°
123°
122°
121°
120°
119°
118°
117°
116°
115°
114°
DEL NORTE
SISKIYOU
MODOC
KLAMATH
HUMBOLDT
TRINITY
SHASTA
LASSEN
PLUMAS
TEHAMA
BUTTE
SIERRA
NEVADA
PLACER
MENDOCINO
COLUSA
YUBA
SUTTER
LAKE
NAPA
SONOMA
MARIN
YOLO
SOLANO
SACRAMENTO
EL DORADO
AMADOR
ALPINE
CALAVERAS
TUOLUMNE
MONO
CONTRA COSTA
SAN JOAQUIN
STANISLAUS
MARIPOSA
MERCED
ALAMEDA
SAN FRANCISCO
SAN MATEO
SANTA CLARA
SANTA CRUZ
SAN BENITO
MONTEREY
FRESNO
TULARE
INYO
KERN
SAN LUIS OBISPO
SANTA BARBARA
VENTURA
LOS ANGELES
SAN BERNARDINO
SAN DIEGO
HUMBOLDT
ELKO
ROOP
WASHOE
STOREY
ORMSBY
LYON
DOUGLAS
ESMERALDA
CHURCHILL
LANDER
EUREKA
WHITE PINE
NYE
LINCOLN
1st Stand North
2d Stand North
3d Stand North
4th Stand North
5th Stand North
6th Stand N.
7th Stand N.
8th Stand North
9th Stand North
Base Line
1st Stand South
2d Stand South
3d Stand South
4th Stand South
5th Stand South
6th Stand South
7th Stand South
8th Stand
Pacific Mail Route to China & Japan
Pacific Mail Route to Honolulu & Australia
Pacific Mail Route to Acapulco Panama and New York
CRESCENT CITY
YREKA
EUREKA
WEAVERVILLE
SHASTA
RED BLUFF
QUINCY
DOWNIEVILLE
NEVADA
OROVILLE
UKIAH
COLUSA
MARYSVILLE
AUBURN
PLACERVILLE
JACKSON
SONORA
MARTINEZ
STOCKTON
SAN JOSE
HOLLISTER
MONTEREY
SALINAS
MARIPOSA
MILLERTON
VISALIA
TULARE LAKE
HAVILAH
INDEPENDENCE
SAN LUIS OBISPO
SANTA BARBARA
LOS ANGELES
SAN BERNARDINO
SAN DIEGO
FORT YUMA
VIRGINIA CITY
CARSON
WASHOE CITY
DAYTON
GENOA
SILVER MT
AUSTIN
EUREKA
HAMILTON
BELMONT
HYKO
LA PLATA
UNIONVILLE
WINNEMUCCA
ELKO
CARLIN
HUMBOLDT LAKE
CARSON LAKE
IONE
LAVA BED
CENTRAL PACIFIC RAIL ROAD
FORT MOJAVE
Camp McGarry
Franklin Lake
Bay of Monterey
Point Conception
San Nicolas I.
Santa Catalina
San Clemente I.
San Diego Bay
EXPLANATION
Railroads
Unfinished
County Boundaries
Tule & Overflowed Land
The fine lines at right angles show the Government surveys in townships and the heavy Standards where spaced or broken that the surveys are incomplete
Scale, 36 miles to the inch.

MAP OF
CALIFORNIA
AND
NEVADA

DRAWN AND COMPILED BY GEO. H. BAKER FOR
DEWEY & CO.
PUBLISHERS OF MINING & SCIENTIFIC PRESS,
PACIFIC RURAL PRESS, PATENT AGENTS &c.
SAN FRANCISCO, CAL. 1876

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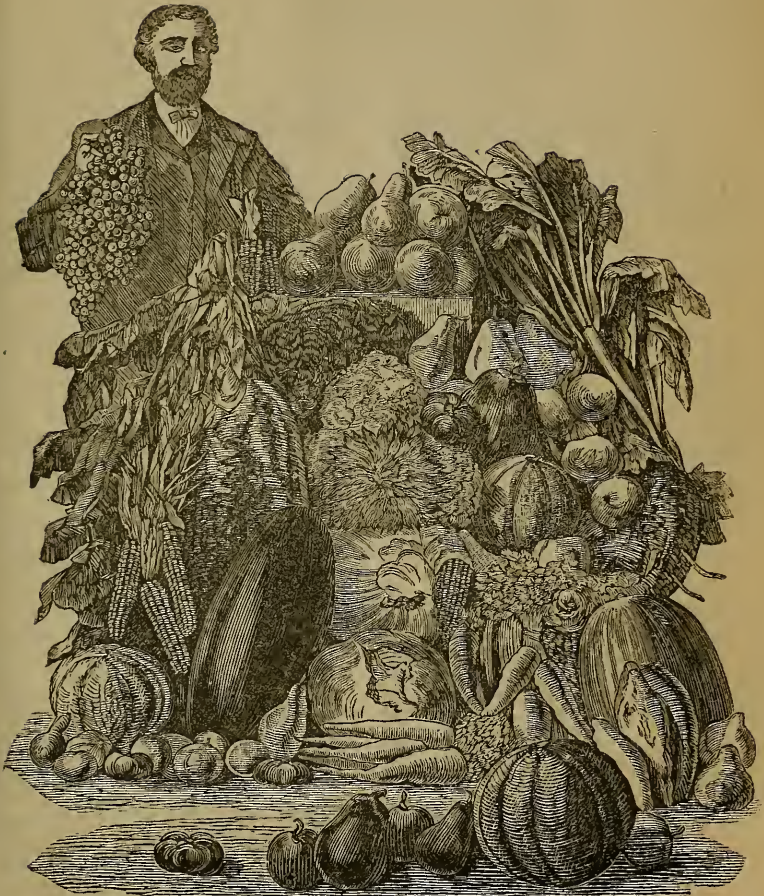

SOME OF THE PRODUCTS OF CALIFORNIA.

PREFACE.

In the succeeding pages the publishers have sought to supply a want long felt by the new comer in the Golden State.

The statistics concerning the resources and products of the several counties of the State are obtained largely from official reports, and may be relied upon as correct. Other matter has been gathered from equally reliable sources. In this connection the publishers desire to acknowledge their indebtedness to the Surveyor General of the State and to the U. S. Registers and Receivers of the several Land Districts for valuable aid and suggestions, and to the editors of the *Pacific Rural Press* and the *Resources of California* for much information, both general and statistical, drawn from the columns of those publications.

The map of California and Nevada which accompanies this pamphlet has been prepared with much care, and at large expense, especially for this work. It will be found to have been carried down to date in the progress recorded of railroad lines, county boundaries and new towns noted.

If the publishers have been remiss in commenting upon any one feature of California especially important to the immigrant, it is the educational advantages which we possess. In no other State of the Union do the public schools stand on a more elevated plane or are more liberally conducted, or more thorough in their course of training. California feels justly proud of her common school system. The University at Berkeley, opposite San Francisco, in Alameda county, ranks among the most prosperous and complete educational institutions in the country. In addition to the University, a large number of colleges, academies and the public schools of the State at large, complete a system which is unsurpassed.

CONTENTS.

Page.

Map of California and Nevada

The Public Lands 5

The Land Districts 7

Table of Rainfall in California 11

Counties and Their Products 12

Statistics of the State at Large 24

INSTRUCTIONS OF THE U. S. LAND COMMISSIONERS.

Different Classes of Public Lands 25

How Lands May be Acquired 25

Fees of Land Office at Location 26

Agricultural College Scrip 26

Pre-emptions 26

Extending the Homestead Privilege 27

But One Homestead Allowed 28

Proof of Actual Settlement Necessary 28

Adjoining Farm Homesteads 28

Lands for Soldiers and Sailors 28

Lands for Indians 30

Fees of Land Office and Commissions 30

Laws to Promote Timber Culture 30

Concerning Appeals 32

Returns of the Register and Receiver 32

Concerning Mining Claims 33

Second Pre-emption Benefit 33

ABSTRACT FROM THE U. S. STATUTES.

The Law Concerning Pre-emption 34

Concerning Homesteads 38

Amendatory Act Concerning Timber 41

Miscellaneous Provisions 42

Additional Surveys of Land for Pre-emption 44

List of Post Offices 45

THE PUBLIC LANDS OF CALIFORNIA.

There are hundreds of persons coming within the boundaries of California every day. They come from all sections of the Union, and nearly all the peoples of the old world are represented in the flood of immigration which is setting westward to the shores of the Pacific. These new-comers are in the main hardy, industrious and persevering. The majority are inclined to agricultural pursuits, and hope to make for themselves homes within our fair valleys, or upon our fertile plains, where they may see their children grow around them in purity and vigor, and pass the evening of life in affluence and content.

Coming, as these immigrants do, entire strangers into the State, they are largely in want of reliable information as to the best sections in which to locate, and where they can avail themselves of the munificent provisions of the U. S. Homestead Act. To supply this want,

The Public Lands of California

Is published. The information contained herein is obtained from official sources, and can be relied upon as thoroughly correct. The works heretofore issued in relation to the opportunities for settlement in California, have omitted to give full and trustworthy information in regard to the amount of U. S. land remaining vacant and available for pre-emption under the Homestead Act. By being made acquainted with this subject, not alone the immigrants but the State will be benefited.

We purpose giving in these pages a brief sketch of every county in the State; the number of acres open to pre-emption in each land district, as far as obtainable; the provisions of the Homestead Law, and steps necessary to make its provisions available; the latest rulings of the Commissioner of the Land Department, touching the occupancy of the public lands; productions of the different sections of the State; rate of taxation in the several counties, and various other information which will be found of inestimable value to the settler.

The Area of the State.

California contains an area of 188,981 square miles, or 120,947,840 acres, of which there has been at least 60,000,000 surveyed. Surveyor-General Stratton conveys the information that $70,000 has been appropriated by Congress for the continuance of the work of surveying the Government lands during the present year. Surveying parties are now at work in the following named counties, viz: Humboldt, Trinity, Modoc, Alpine, Placer, Los Angeles and San Diego. As soon as these parties return their field notes to the Surveyor-General's office, which must be done by September 1st, and the plats can be made and sent to the Land Offices in the various districts, the land thus surveyed will be open to homestead and pre-emption by actual settlers. During the past year many thousands of acres of public lands have been surveyed, and are now open for settlement in the various land districts in the State.

The Original Settlers in California

Who were induced to pursue the business of agriculture, took large tracts of land in many of the valleys of the State; and it will be remembered that this was at a time prior to the passage of the Homestead and Pre-emption Act of Congress. In addition to this there were grants made to many natives of California by the Mexican Government, to those of her citizens who had special claims on that country before the United States acquired title and possession of the territory by treaty, at the close of the Mexican war, and which grants by that treaty were generally confirmed by Congress. Many leagues of the finest agricultural land in California were thus appropriated by men who cared very little for agricultural pursuits and allowed the broad and fertile acres to be overrun with immense droves of wild cattle and wilder horses. And the vacquero, dressed in picturesque costume, scoured over the plains on his mustang, caring nothing for what the land produced, if only his flocks and herds secured sufficient pasturage.

In many instances the holders of the lands became impoverished through idleness or dissipation, and sold to the far-seeing, enterprising "Americano," their broad acres for merely nominal sums, and these are now being offered for sale at reasonable rates.

There are, however, in

The Foothills

And among the mountains, many valleys of almost Eden loveliness, which remain as bare and uncultivated as they were one hundred years ago, and which invite the husbandman to make in them happy homes. These homes are offered *free* to the hardy and industrious farmer, and it is for the purpose of pointing them out to the stranger, that he is directed to peruse these pages.

A great mistake is made by persons from a distance, in anticipating too much when they arrive in California. In the East people read of orange groves, and lemon trees, of figs and apricots, of cherries and early strawberries, and of a hundred and one things to excite the imagination and fire the heart to taste the pleasures of this semi-tropical clime. But stranger, you should bear in mind that the orange groves are owned by other men than you; that these fruits which grow so abundantly, have cost many years of labor and attention to bring to perfection, and that if you would have the same, you too must learn to labor and to wait.

Although the finest valley lands are occupied, the hills and mountains will produce the most luscious fruits in the world. You can acquire as much of this land as is needful for cultivation, and we propose to make clear the way for you to obtain it. It is a mistake to suppose that our hills and mountains will not produce equally as well as the valleys. Wherever roads, either rail or wagon, have been cut through or along the sides of the hills and mountains in this State, the demonstration is perfect that the soil is deep and most fertile. Why, then, should any hesitate to cultivate all the land that can in any manner be plowed? It is well known that in Pennsylvania the mountains and hills are cultivated even to their summits, in very many localities, and the finest barley and the best rye are raised in the most elevated places. Are the mountains of California less productive than those referred to? Can we not with the advantages of climate, with no winter, and the many other advantages, do as well or better than the farmers of Pennsylvania?

Land Districts in California.

There are in this State ten land districts, viz: San Francisco, Humboldt, Shasta, Susanville, Marysville, Stockton, Sacramento, Visalia, Independence and Los Angeles. The land districts are formed without regard to county lines, and hence it not unfrequently happens that one county may be in two districts. We shall give a brief sketch of each district with its general characteristics, and shall add to it the amount of land vacant in such district. The first on the list is the

San Francisco Land District,

Which is very large, and in which there is a variety of land, climate and temperature. The office is in San Francisco, on Jackson street near Montgomery. Register, Capt. Rollins; receiver, C. H. Chamberlain.

The following, taken from the *Evening Bulletin* describes this district, and we quote: In an hour spent at the United States land office in this city one day recently by an attache of the *Bulletin*, many facts were obtained in regard to the extent of this land district. It is the largest perhaps in the State, and on the north takes in Mendocino and Lake counties, and running out to the coast extends as far south as the Independence district, taking in the south line of Fresno county. In this district are many hundreds of acres of land yet unoccupied, and which can be obtained by homestead or preemption. In Mendocino county the following lands are vacant: Township 14, north range 13 west; in all about 8,000 acres. This is mostly in Anderson valley, and is covered with a growth of fine redwood timber, which is valuable and affords a fine range for sheep and stock, as there is plenty of grass and water. Township 15, north range 15 west, near Ukiah, is also vacant; also township 15, north range 16 west, near Cuffee's Cove. These latter townships contain about 6,000 acres. In Fresno county, on the south, there are some 16,000 acres of grazing lands, in township 14, south 10 east; 15 south 10 east; 15 south 9 east; also about 15,000 acres in 14, north range 7 west, near Lower Lake; also near Bartlett springs, in township 15, north range 8 west, and 14, north range 8 west, near Lakeport. There are also vacant lands in the following counties: Contra Costa, Alameda and Santa Clara. Mr. Rollins, the register of the United States land office, will give facilities to persons seeking information. The northern portion of his district is perhaps the best, for several reasons. The coast counties north are rarely ever affected by drouth, and the land needs no expensive irrigation, and besides it is rich soil and can be more easily cultivated than the mountains of Pennsylvania.

The following lands are subject to homestead and pre-emption, as shown by the plats in the office at San Francisco:

T.	Range.	County.	Uncl'm'd.
11 N	12 W	Sonoma..........	10,680
15 N	14 W	Mendocino..........	11,080
15 N	15 W	Mendocino..........	2,240
15 N	16 W	Mendocino..........	4,520
14 N	13 W	Mendocino..........	16,800
14 N	14 W	Mendocino..........	12,960
14 N	7 W	Lake..............	3,700
15 N	8 W	Lake..............	2,560
15 N	10 W	Lake..............	2,400
14 N	8 W	Lake..............	5,400
1 S	1 E	Contra Costa........	3,00
14 S	8 E	Monterey..........	3,100
14 S	9 E	Monterey..........	1,920
14 S	10 E	Fresno............	11,080
15 S	10 E	Fresno............	5,560
15 S	9 E	Fresno............	9,320
		Total........	105,620

Humboldt Land District

Extends from the southern boundary of Humboldt county to the Oregon line, and from the Pacific ocean on the west to a line sixty miles west of Mount Diablo meridian on the east, embracing Humboldt and Del Norte counties, nearly all of late Klamath county, and the western portion of Trinity county. That portion of the district lying north and east of the Klamath and Trinity rivers is a mountainous tract and as rugged as any portion of the coast range, and contains valuable mines but is unsusceptible of agricultural improvement to any considerable extent, except portions of Del Norte county. The agricultural lands within the district are in Humboldt county (including the southwestern portion of late Klamath county,) the southwest corner of Trinity and the western portion of Del Norte counties. Skirting the coast from near the Oregon line to Eel river, in Humboldt county, and up Eel river and its branches to near the Mendocino county line, is an almost unbroken belt of timber from five to twenty miles in width, mainly redwood, with yellow and white fir, and in some localities, spruce and California laurel. A part of this timber belt in Del Norte and Humboldt counties has been surveyed. The greater portion and the more accessible of that which is surveyed has been disposed of by the government, and a portion still remains subject to the pre-emption and homestead laws. Lumber is manufactured for shipment at several points—Crescent City, Trinidad, and Eureka and Arcata on Humboldt bay. These lumber manufactories find employment for a great many men in the woods and in the mills, and pay good wages, but for most branches skilled and experienced lumbermen are required. They also increase the demand for agricultural labor by providing a market for agricultural products. The valuable land for general agricultural purposes in this district is limited in quantity, and is mostly west of the redwood belt, in Eel river, Mattole and Mad River valleys, and around Humboldt bay in Humboldt county, and in Smith River valley in Del Norte county. The largest bodies are on Humboldt bay and in Eel River valley. These are all in private hands, and range from $20 to $100 per acre. These lands are very productive, and tracts may be purchased from $20 to $40 per acre, which would double in value when cleared and reduced to cultivation. East of the redwood belt is an extensive tract of broken, mountainous land, useful only for grazing purposes, with only here and there small tracts sufficiently level for general cultivation. These tracts are in small valleys remote from each other, or on benches or plateaus at greater elevations. Of this mountain grazing land a tract has been surveyed sixty miles north and south, and from twelve to thirty miles in width, embracing over 500,000 acres. The greater portion of this surveyed tract is vacant public land, subject to pre-emption and homestead entry. Through nearly the length of this tract a county road is being constructed to connect Humboldt bay with Round valley, Mendocino county; also a county road is being constructed to connect Mattole valley with the roads of the northwestern portion of Mendocino county.

T & R	Meridian.	Date Sent.	Claimed	Unclmd
1 South 2W	Humboldt	Oct 15, '75	....	....
5 North 2 E	Humboldt	Oct 15, '75	....	....
6 North 3 E	Humboldt	Oct 15, '75	....	....
6 North 2 E	Humboldt	Feb 11, '75	....	....
2 North 2 E	Humboldt	Mch 31, '75	....	....
4 South 2 E	Humboldt	Mch 31, '75	....	....
3 South 1 E	Humboldt	Mch 31, '75	....	....
3 South 2 E	Humboldt	[illegible]h 31, '75	...	....
3 South 1W	Humboldt	Mch 31, '75	....	....
4 South 1W	Humboldt	Mch 31, '75	....	....
3 South 3 E	Humboldt	Mch 31, '75	....	....
3 South 2W	Humboldt	Mch 31, '75	....	....
4 South 3 E	Humboldt	Mch 31, '75	....	....
4 South 1 E	Humboldt	Mch 31, '75	....	....

[NOTE—This table and those following under notice of the several land districts denotes the land which has been surveyed and thrown open for pre-emption since September 1st, 1874. The words "date sent," signify the date of forwarding the township plats from the Surveyor Generals' office in this city to the local land offices. When figures appear in the column under "claimed," they show the number of acres that have been taken up since the date of furnishing the plats. These tables will be found very valuable for reference by the emigrant.]

The land office is situated at Humboldt, Eureka county, on Humboldt bay

SOLOMON COOPER, Receiver. CHAS. F. ROBERTS, Register.

The adjoining district is the

Shasta Land District,

Which also extends on the north to the boundary line between California and Oregon, and includes Shasta, north half of Tehama county, a small portion of Butte, Trinity, Siskiyou, part of the Modoc counties, and Lassen. There is in this district a variety of lands, valleys, plains and mountains. There are large quantities of Government and cheap railroad lands to be had. Government land can be had in either of the counties named. The south line of the district is near the town of Tehama, and therefore includes the northern part of the Sacramento valley, in which many beautiful farms may be made. It also includes Burney valley, Fall River valley, and Scott valley. This portion of the State is well watered, and there is a sufficiency of various kinds of timber for all. In the counties of Klamath, Del Norte and Trinity some mining has been done, but this land is excellent as a grazing country. In Siskiyou there is some very excellent pasture land and all through those counties are very many valleys containing from 100 to 1,000 acres of fine agricultural land. There is no doubt that as these two land districts settle up with an industrious people, there will be developed a wonder of agricultural resources never before dreamed of by the proverbial "oldest inhabitant."

T & R	Meridian.	Date Sent.	Claim'd	Unclmd.
46 North 5 E	Mt Diablo	Sept 2, '74	60	5300
47 North 5 E	Mt Diablo	Sept 2, '74	260	1600
48 North 5 E	Mt Diablo	Oct 26, '74	800	1000
28 North 2W	Mt Diablo	Feb 13, '75	720	22000
41 North 9W	Mt Diablo	Apr 20, '75	3400	11000
43 North 9W	Mt Diablo	Apr 20, '75	10000	12900
45 North 2W	Mt Diablo	Apr 20, '75	320	21000
48 North 1 E	Mt Diablo	Apr 20, '75	.....	7054

Township 28 N, R 2 W, adjoins the township in which Red Bluff is situated; some farming and grazing land. Townships 41 and 43, 9 N, partly situated in Scott valley, Siskiyou county; farming and grazing land. The townships are on and near the Oregon State line; adapted to grazing and stock business. The land office is situated at Shasta.

CHAS. McDONALD, Receiver. AARON BELL, Register.

Adjoining the Shasta district and to the eastward is the

Susanville Land District,

In which is found the counties of Lassen, Plumas, Modoc and part of Siskiyou. This district also extends northward to the dividing line between California and Oregon. The most of the country is rugged and in many places barren, many fine valleys, however, are to be found that are in extent from 100 to 1,000 acres, that can be made into good farms; the country, however, is comparatively wild and offers no special inducements, although in Lassen county, on one extremely high elevation, there is a large clear lake that with the expenditure of from $15,000 to $20,000 could be made available for the purpose of irrigation, and were it accomplished, would make valuable many thousands of acres of fine lands.

T & R	Meridian.	Date Sent.	Claimed	Uncmd
26 North 14 E	Mt Diablo	Nov 27, '74	1600	....
24 North 15 E	Mt Diablo	Nov 27, '74	1600	....
25 North 15 E	Mt Diablo	Nov 27, '74	360	....
25 North 14 E	Mt Diablo	Nov 27, '74	1800	....
36 North 15 E	Mt Diablo	Nov 27, '74	1560	....
24 North 12 E	Mt Diablo	Nov 27, '74	....	....
26 North 13 E	Mt Diablo	Nov 27, '74	2320	....
35 North 15 E	Mt Diablo	Nov 27, '74	....	....
27 North 10 E	Mt Diablo	Dec 10, '74	680	....

The lands vacant in this district are reckoned as grazing lands, but among the mountains are very many small valleys that can be easily cultivated. The land office is located at Susanville.

Andrew Miller, John R. Lockwood.
Receiver. Register.

In Marysville Land District

Is found portions of Sierra, Butte, Colusa, Yolo and Yuba counties. In this district there can be found considerable government and cheap railroad lands; most of the land is covered with forests of pine and fir, that will some day be very valuable. Most of these counties are 4,000 feet above the level of the sea, and the air is very pure and bracing. The grass is good and cattle and sheep thrive well.

T & R	Meridian.	Date Sent.	Claimed	Unclmd
17 North 8 E	Mt Diablo	Sept 4, '84	....	....
12 North 3 W	Mt Diablo	May 20, '75	....	....
16 North 1 E	Mt Diablo	May 20, '75	....	....

Township 17 N. R. 8 E., above noted, is within the reserved limits of the C. P. R. R. grant, and consequently the odd numbered sections, not mineral, rent to that company. A portion of township 12 N. R. 3 W., located in Yolo county, is now open to pre-emption and homestead. It is available for grazing and like purposes. Most of Township 16 N. R. 1 E. is located in Butte and contains some grazing land. Some good land may be found here. The odd numbered sections have been claimed by the California and Oregon R. R. Co. The land office is located at Marysville.

Eli Legarden, Learned B. Ayer,
Receiver. Register.

The Visalia Land District

Is composed of the counties of Tulare, Kern and part of Fresno. There is much good government land in this district also, and the recent surveys in Kern and Fresno counties have added much to the quantity. Visalia is the location of the land office. The county, besides being rich in minerals, is well adapted to sheep raising and dairying. There is railroad land in this district which can be purchased at about $2.50 per acre. The route to Visalia is via the C. P. R. R. to Stockton.

T & R	Meridian.	Date Sent.	Claimed	Unclmd
29 South 29 E	Mt Diablo	Sept 24, '74	....	....
20 South 29 E	Mt Diablo	Sept 24 '74	....	....
20 South 28 E	Mt Diablo	Sept 24, '74	....	....
19 South 27 E	Mt Diablo	Sept 24, '74	....	....
19 South 29 E	Mt Diablo	Sept 24, '74	....	....
18 South 29 E	Mt Diablo	Sept. 24, '74	....	....
19 South 28 E	Mt Diablo	Sept 24, '74	....	....
32 South 22 E	Mt Diablo	Oct 15, '74	....	....
31 South 22 E	Mt Diablo	Oct 15, '74	....	....
24 South 29 E	Mt Diablo	Jan 27, '75	....	....
24 South 30 E	Mt Diablo	Jan 27, '75	....	....
27 South 30 E	Mt Diablo	Jan 27, '75	....	....
28 South 29 E	Mt Diablo	Jan 27, '75	....	....
26 South 30 E	Mt Diablo	Jan 27, '75	....	....
26 South 32 E	Mt Diablo	Jan 27, '75	....	....
28 South 30 E	Mt Diablo	Jan 27, '75	....	....
30 South 31 E	Mt Diablo	Mch 29, '75	....	....
29 South 30 E	Mt Diablo	June 5, '75	....	....

The above is most all of it very good mountain land. intercepted with beautiful valleys and abundant supply of good water from numerous streams and springs.

M. C. Andrews, G. A. Botsford,
Receiver. Register.

The Stockton Land District

Is composed of the counties of San Joaquin, Tuolumne, Stanislaus, Mariposa. Merced and parts of Amador, Calaveras and Fresno. It is quite a large district, and embraces some of the finest valleys in the State, although, as in other districts, land hunters will be obliged to go into the foothills and mountains for homesteads or pre-emption. There is considerable railroad land, however, throughout the district, which is selling low and on good terms. Stockton is the location of the land office and parties can get correct information as to the vacant lands, etc., by applying to the register at that place.

T & R	Meridian.	Date Sent.	Claimed	Unc-med
6 South 22 E	Mt Diablo	Nov 12, ’74	....	....
5 South 21 E	Mt Diablo	Mch 4, ’75	....	....
3 North 14 E	Mt Diablo	Mch 17, ’74	....	....
5 South 19 E	Mt Diablo	Apr 5, ’75	....	....
7 South 19 E	Mt Diablo	Apr 5, ’75	....	....
8 South 19 E	Mt Diablo	Apr 5, ’75	....	....
9 South 19 E	Mt Diablo	Apr 5, ’75	....	....
7 South 20 E	Mt Diablo	Apr 5, ’75	....	....
6 South 19 E	Mt Diablo	Apr 5, ’75	....	....
7 South 21 E	Mt Diablo	Jan 3, ’75	....	....
8 South 20 E	Mt Diablo	Jan 3, ’75	....	....
8 South 21 E	Mt Diablo	Jan 3, ’75	....	....

Nearly all of the land embraced in the above list is vacant. Its character is mostly mountainous and well adapted to sheep raising and grazing purposes.

Otis Perrin, Receiver. Melville Cottle, Register.

The Independence Land District

Contains over 15,000,000 acres of land. It is composed of the counties Inyo, Mono and part of Tulare, Kern and San Bernardino. The district is sparsely settled, and there is a large amount of government land open to pre-emption and homestead. Very good 160 acre tracts can be had in the southern portion of the district suitable for growing any kind of grain and semi-tropical fruit.

T & R	Meridian.	Date Sent.	Claimed	Unc-med
17 South 35 E	Mt Diablo	Sept 24, ’74	....	....
17 South 39 E	Mt Diablo	Sept 24, ’74	....	....
22 South 34 E	Mt Diablo	Sept 24, ’74	....	....
20 South 36 E	Mt Diablo	Sept 24, ’74	....	....
22 South 36 E	Mt Diablo	Sept 24, ’74	....	....
8 North 29 E	Mt Diablo	Dec 29, ’74	....	....
9 South 23 E	Mt Diablo	Dec 29, ’74	....	....
20 South 40 E	Mt Diablo	Jan 19, ’75	....	....
18 South 40 E	Mt Diablo	Jan 19, ’75	....	....
19 South 39 E	Mt Diablo	Jan 19, ’75	....	....
20 South 41 E	Mt Diablo	Jan 19, ’75	....	....
18 South 39 E	Mt Diablo	Jan 19, ’75	....	....
19 South 41 E	Mt Diablo	Jan 19, ’75	....	....
19 South 40 E	Mt Diablo	Apr 5, ’75	....	....
25 South 33 E	Mt Diablo	Apr 5, ’75	....	....
26 South 34 E	Mt Diablo	Apr 5, ’75	....	....
26 South 35 E	Mt Diablo	Apr 5, ’75	....	....
26 South 3 E	Mt Diablo	Apr 5, ’75	....	....
23 South 44 E	Mt Diablo	May 18, ’75	....	....
23 South 43 E	Mt Diablo	May 18, ’75	....	....
21 South 43 E	Mt Diablo	May 18, ’75	....	....
24 South 43 E	Mt Diablo	May 18, ’75	....	....
22 South 41 E	Mt Diablo	May 18, ’75	....	....
22 South 43 E	Mt Diablo	May 18, ’75	....	....
17 South 44 E	Mt Diablo	May 18, ’75	....	....
21 South 44 E	Mt Diablo	May 18, ’75	....	....
19 South 42 E	Mt Diablo	May 18, ’75	....	....
17 South 42 E	Mt Diablo	May 18, ’75	....	....
18 South 42 E	Mt Diablo	May 18, ’75	....	....

Most of the above mentioned land is mountainous and only suitable for grazing purposes, but in Owens’ valley, Inyo county, is a stretch of land seventy-five miles in length by from ten to twelve in width, which, with irrigation, will make rich returns to the labors of the husbandman. The greater portion of this valley is open to pre-emption. The land office is located at Independence, Inyo county.

Thomas May, Receiver. Geo. H. McCallum, Register.

The Sacramento Land District

Adjoins the Marysville district on the south and is composed of parts of the counties of Sierra, Nevada, Placer, Elorado, Alpine, Amador and part of Calaveras; all of these counties are within the great mineral belt of California, and the soil and topography of the country is nearly the same as the Marysville district. The first two counties named are very mountainous, nearly all their surface being 4,000 feet above the level of the sea. The others have their eastern borders high up in the mountains, but on the west, slope down low enough to include much land valuable for agricultural purposes. They are generally covered with thick forests. Plenty of good water is found through the mountains.

T & R	Meridian.	Date Sent.	Claimed	Uncmed
19 North 15 E	Mt Diablo	Nov 5, ’74	....	....
18 North 15 E	Mt Diablo	Nov 5, ’74	....	....
13 North 17 E	Mt Diablo	Nov 12, ’74	....	....
18 North 10 E	Mt Diablo	Dec 24, ’74	....	....
8 North 22 E	Mt Diablo	Dec 29, ’74	....	....
17 North 18 E	Mt Diablo	Jan 21, ’75	....	....
18 North 18 E	Mt Diablo	Jan 21, ’75	....	....
16 North 18 E	Mt Diablo	Jan 21, ’75	....	....
9 North 14 E	Mt Diablo	Apr 13, ’75	....	....
10 North 14 E	Mt Diablo	Apr 13, ’75	....	....
11 North 14 E	Mt Diablo	Apr 13, ’75	....	....
12 North 13 E	Mt Diablo	Apr 13, ’75	....	....
8 North 14 E	Mt Diablo	Apr 13, ’75	....	....
12 North 14 E	Mt Diablo	Apr 13, ’75	....	....
13 North 17 E	Mt Diablo	May 19, ’75	....	....
12 North 17 E	Mt Diablo	June 15, ’75	....	....

The above mentioned land of course is of the character before described. Some of the numbered sections come within the limit of the grant to the C. P. R. R. Co. The land office is situated at Sacramento.

Hart Fellows, Receiver. T. B. McFarland, Register.

The Los Angeles Land District

Is composed of the counties of Los Angeles, San Bernardino and San Diego. There is some vacant land in this district, but not so much as in counties farther north. There are here many large ranches in Los Angeles county that are being sold out in small tracts.

T & R	Meridian.	Date Sent.	Claimed	Unclmd
1 North 7W	S Bern'do	Sept 5, '74	....	....
12 South 1W	S Bern'do	Oct 23, '74	....	....
4 South 6W	S Bern'do	Nov 7, '74	....	....
5 South .6W	S Bern'do	Nov 7, '74	....	....
3 North 21W	S Bern'do	Dec 2, '74	....	....
4 North 21W	S Bern'do	Dec 2, '74	....	....
3 North 19W	S Bern'do	Dec 14, '74	....	....
3 North 20W	S Bern'do	Dec 14, '74	....	....
4 North 18W	S Bern'do	Dec 14, '74	....	....
4 North 19W	S Bern'do	Dec 14, '74	....	....
4 North 20W	S Bern'do	Dec 14, '74	....	....
1 North 8W	S Bern'do	Dec 29, '75	....	....
5 South 1E	S Bern'do	Jan 5, '75	....	....
2 North 15W	S Bern'do	Jan 15, '75	....	....
3 North 15W	S Bern'do	Jan 15, '75	...	....
7 South 28 E	S Bern'do	Feb 5, '75	....	....
8 South 23 E	S Bern'do	Feb 5, '75	....	....
5 South 24 E	S Bern'do	Feb 5, '75	....	. ..
5 South 23 E	S Bern'do	Feb 5, '75	....	....
6 South 23 E	S Bern'do	Feb 5, '75	....	....
6 South 24 E	S Bern'do	Feb 5, '75	....	....
4 South 9W	S Bern'do	Mch29, '75	....	....
7 South 7W	S Bern'do	Apr 8, '75	....	....
8 South 7W	S Bern'do	Apr 29, '75	....	....
5 North 27W	S Bern'do	Apr 29, '75	....	....
5 North 26W	S Bern'do	Apr 29, '75	....	....
5 North 25W	S Bern'do	Apr 29, '75	....	....
5 North 28W	S Bern'do	Apr 29, '75	....	...
4 North 29W	S Bern'do	May 19, '75	....	....
4 North 26W	S Bern'do	May 19, '75	....	...
5 South 7W	S Bern'do	May 21, '75	....	....
5 South 8W	S Bern'do	May 21, '75	....	....
4 North 28W	S Bern'do	May 26, '75	....	....
11 North 20W	S Bern'do	June 3, '75	....	....
11 North 21W	S Bern'do	June 3, '75	....	....
10 North 20W	S Beon'do	June 3, '75	....	....

Most of the above mentioned land is hilly or mountainous and suitable only for grazing. A considerable portion of it is unlocated. In townships 5, 6, 7 and 8, situated in the Colorado Bottoms, there is some land fitted for raising fine crops. Application to the land office, which is situated at Los Angeles, will enable the settler to obtain more particular information regarding the vacant lands.

J. W. HAVERSTICK, Receiver.
ALFRED JAMES, Register.

Table of Rainfall in California.

We annex a table showing the amount of rainfall, by months, at Sacramento, the capital of the State, since 1849 up to and including the month of October, 1874. This table was prepared by Dr. Logan, Secretary of the Board of Health. It will be found of interest to the new comer and give a fair idea of what may be expected during "the rainy season" in California.

RAIN TABLE FOR SACRAMENTO.—PREPARED BY DR. T. M. LOGAN.—FOR THE PRESS.

Arranged according to the seasons, showing the amount in inches of each month, during twenty-four years, and for each rainy season, to November 1st, 1874; also the quantity for every month, and the annual amount of rain.

MONTHS.	1851	1852	1853	1854	1855	1856	1857	1858	1859	1860	1861	1862	1863	1864	1865	1866	1867	1868	1869	1870	1871	1872	1873	1874
September	1.000	0.003	0.000	sp'kle	sp'kle	sp'kle	0.000	sp'kle	0.025	0.063	0.000	0.000	0.003	0.004	0.080	0.000	0.006	0.000	sp'kle	0.000	0.001	0.002	0.000	0.050
October ...	0.180	0.000	0.005	1.010	0.000	0.195	0.655	3.010	0.000	0.914	sp'kle	0.355	0.000	0.120	0.480	0.001	0.000	0.000	2.120	0.020	0.210	0.220	0.310	2.257
November.	2.140	6.000	1.500	0.650	0.750	0.651	2.406	0.147	6.485	0.181	2.170	0.005	1.490	6.718	2.427	2.426	3.806	0.774	0.850	0 584	1.220	1.930	0.210	3.801
December.	7.070	13.410	1.540	1.150	2.000	2,396	6.632	4.329	1.834	4.282	8.637	2.327	1.815	7.867	0.364	9.511	12.850	2.612	1.962	0.971	10.990	5.388	10.009	0.440

MONTHS.	1852	1853	1854	1855	1856	1857	1858	1859	1860	1861	1862	1863	1864	1865	1866	1867	1868	1869	1870	1871	1372	1873	1874	1875
January....	0.580	3.000	3.250	2.670	4.919	1.375	2.444	0.964	2.310	2.668	15.036	1.733	1.077	4.776	7.699	3.440	6.036	4.790	1.371	2.075	4.040	1.230	5.200	8.705
February..	0.120	2.000	8.500	3.460	0.692	4.801	2.461	3.906	0.931	2.920	4.260	2.751	0.186	0.712	2.010	7.104	3.147	3.630	3.236	1.919	4.740	4.360	1.856	......
March.....	6.400	7.000	3.250	4.200	1.403	0.675	2.878	1.637	5.110	3.320	2.800	2,360	1.303	0.481	2.018	1.010	4.348	2.942	1.642	0.690	1.936	0.551	3.050	......
April......	0.190	3.500	1.500	4.320	2.132	sp'kle	1.214	0.981	2.874	0.475	0.821	1.693	1.080	1.370	0.476	1.805	2.306	1.240	2.120	1.454	0.610	0.512	0.890	......
May.......	0.300	1.450	0.210	1.150	1.841	sp'kle	0.203	1.037	2.491	0.590	1.808	0.355	0.742	0.460	2.252	0.008	0.270	0.648	0.270	0.756	0.280	0.000	0.370	......
June.......	0.000	0.001	0.310	0.010	1.033	0.350	0.098	0.000	0.017	0.135	0.011	0.000	0.087	0.000	0.100	0.000	sp'kle	0.008	sp'kle	0.001	0.025	0.002	0.002	......
July.......	0.000	0.001	0.000	0.000	0.000	0.000	0.000	0.030	0.549	0.000	0.000	0.000	0.000	0.004	0.018	0.000	0.000	0.000	sp'kle	......	0.000	0.015	0.001	......
August	0.000	0.000	sp'kle	0.000	0.000	sp'kle	sp'kle	0.000	0.000	0.000	0.006	0.000	0.085	0.000	0.000	0.000	0.000	0.000	0.001	......	0.000	sp'kle	0.000	......
Total....	17.980	36.365	20.065	18.620	13.770	10.443	18.991	16.041	22.626	15.548	35.549	11.579	7.868	22.512	17.924	25.305	32.769	16.644	13.572	8.470	24.052	14.208	21.898	

The Counties of the State.

We give below a brief sketch of the different counties in the State, together with such statistics in regard to their products as we have been able to gather from the Assessors returns and from other sources.

Alameda County.

Alameda county forms the eastern shore of San Francisco bay for about thirty-six miles; it contains about 800 square miles, or 512,000 acres. There are about 20,000 acres along the bay overflowed by the tide; a company has recently been formed for their reclamation. Alameda creek, which runs through the county, supplies power for several grist and lumber mills. The soil of the plains in this county is generally black, sandy loam, resting on a substratum of sand and gravel, and is sufficiently moist to grow any description of fruit, vegetables, or grain, without irrigation. The soil everywhere in the county is very fertile. Land is generally held at a high figure, but small tracts of land may be obtained in the neighborhood of the old Mission of San Jose, at prices within the reach of the farmer of moderate means.

Land under cultivation, 116,911 acres; wheat, 1,450,353 bushels; barley, 875,612 bushels; oats, 224,050 bushels; rye, 1,000 bushels; corn, 39,600 bushels; potatoes, 2,467 tons; butter, 88,250 pounds; grapevines, 627,611; gallons of wine, 100,000; gallons of brandy, 2,000. Total valuation, $35,170,867; population, 36,500; voters, 6,066.

Oakland is the county seat of Alameda county, and is rapidly becoming to San Francisco what Brooklyn is to New York. It is reached from the city by ferries, which run every half hour; fare, fifteen cents each way; distance, seven miles.

Alpine County.

This county is very mountainous, and the amount of land suited to agricultural purposes is too limited to make it worth the while of the immigrant from the Eastern States to proceed hither in search of a farm.

The county seat of Alpine county is Silver Mountain. It is 360 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Reno, Carson, and thence by stage—fare $32.25. Stages run from this place to Big Trees, Murphy's and Stockton.

Acres of land in cultivation, 28,620; wheat, 4 000 bushels; barley, 900 bushels; oats, 120 bushels; potatoes, 120 tons; neat cattle, 840; sheep, 1,075; saw mills, 4; lumber, 1,000,000 feet; shingles, 60,000. Population, 1,000; voters, 300; total valuation, $848,466.

Amador County.

The chief business carried on in the county is mining, though there are many well cultivated farms, and situated among the lower foothills of Amador are some of the richest valleys in the State. The price of land is not very high; improved farms can be bought at from $5 to $10 per acre. The returns of the County Assessor show that 69,240 tons of ore were crushed in Amador county during the years 1868-9.

The county seat of Amador county is Jackson, which has about 1,000 inhabitants. It is 181 miles from San Francisco. It may be reached by steamer to Sacramento, railroad to Latrobe, and thence by stage. The fare is $13.50.

Acres of land under cultivation, 18,713; wheat, 21,125 bushels; barley, 45,360 bushels; corn, 28.654 bushels; hay, 8,085 tons; butter, 10,500 pounds; wool, 105,420 pounds; grapevines, 1,680,300; wine, 82,200 gallons; brandy, 900 gallons; neat cattle, 6,940; sheep, 15,178; saw mills, 4; lumber, 3,800,000 feet; shingles, 554,000. Total valuation, $2,554,585; population, 10,000; voters, 3,244.

Butte County.

The extreme length of this county north and south is a little over sixty, and its average breadth thirty-five miles. It is both a farming and mining county. It contains much rich land along the Sacramento river. It is well watered everywhere. It has good roads and facilities for shipping produce to San Francisco, by the Sacramento river. The ordinary yield of the land is about thirty bushels of wheat, and forty-five of barley to the acre. Much fruit is raised, and there are many large vineyards in the county. An important product of this county is peanuts, which are grown in immense quantities by the Chinese. The farmer of small means need not despair of finding a farm suited to his means in this county; and having once settled there, will be amply repaid for his outlay by the agreeable climate, rich soil, and ready market for his productions.

Land under cultivation, 184,375 acres. Products: Wheat, 2,780,700 bushels; barley, 475,936 bushels; oats, 1,810 bushels; rye, 2,330 bushels; corn, 6,300 bushels; potatoes, 27 tons; peanuts, 100,000 pounds; sweet potatoes, 32 tons; hay, 12,115 tons; butter, 21,000 pounds; cheese, 10,809 pounds; wool, 353,072 pounds; grapevines, 600,564; wine, 26,930 gallons; neat cattle, 16,318; sheep, 34,761; saw mills, 21; lumber, 62,000,000 feet; shingles, 1,700,000. Total valuation, $1,062,619; population, 15,000; voters, 4,621.

The county seat of Butte county is Oroville, a city of fifteen hundred inhabitants. It is 191 miles from San Francisco. It is reached by steamer to Sacramento, and thence by railroad. The fare is $10.50.

Calaveras County

Has an average length of forty miles, with a width of about twenty. It is thickly wooded. Some of the forest lands, if cleared, would afford good farms to the agriculturist, and the number of good roads connecting the county with all parts of the State would afford him an opportunity of sending his produce to market. Good agricultural land is however, as a rule, scarce; the county being more rich in mineral than farming lands. Farms suited to raising all kinds of grain, fruit and vegetables, may be obtained on the foothills and in the valleys at very moderate prices.

Acres of land in cultivation, 11,160; wheat, 2,938 bushels; barley, 23,167 bushels; corn, 6,000 bushels; potatoes, 620 tons; hay, 3,200 tons; butter, 29,400 pounds; wool, 225,850 pounds; grapevines, 552,600; wine, 44,030 gallons; brandy, 1,060 gallons; neat cattle, 9,296; sheep, 39,650; saw mills, 5; lumber, 2,960,000 feet. Total valuation, $1,656,331; population, 8,500; voters, 2,630.

Colusa County

Is fifty-seven miles in length north and south, and forty-five miles in breadth. The western part, constituting about one-third of the county, being covered by the Coast range, is hilly or mountainous; the balance, consisting of rich alluvial, or less fertile prairie land, is nearly all level and well adapted to the growing of fruits and grain; this being almost exclusively an agricultural and stock raising county. Sheep and swine raising is pursued to a great extent. Rich tule lands, easy of reclamation, stretch for many miles along the Sycamore slough, and other streams running into the Sacramento. They amount in the aggregate to about thirty thousand acres. Farms may be bought in this county at from $2.50 to $10 per acre.

Land under cultivation, 300,000 acres. Products: Wheat, 2,000,000 bushels; barley, 200,000 bushels; oats, 18,300 bushels; rye, 2,000 bushels; corn, 4,000 bushels; potatoes, 90 tons; sweet potatoes, 50 tons; hay, 7,000 tons; butter, 10,000 pounds; wool, 1,000,000 pounds; grapevines, 245,000; neat cattle, 9,149; sheep, 185 369; hogs, 14,529; saw mills, 2; lumber, 2,500,000 feet; shingles, 250,000. Total valuation, $9,139,850; population, 15,000; voters, 2,600.

The county seat of Colusa county is Colusa. It is two hundred miles from San Francisco. It is reached by steamer to Sacramento, railroad to Marysville, and thence by stage; fare, $11.

Contra Costa County.

This county contains upwards of 500,000 acres, about 150,000 of which are good arable land. Mountains and hills cover about 250,000 acres, including Monte Diablo, which contains the most important coal mines in the State. There are about 100,000 acres of swamp and overflowed land on the margin of Suisun bay, and along the banks of the San Joaquin river. Portions which have been reclaimed produce large crops of grain, fruit and vegetables. There are many good wagon roads in the county, connecting all parts of it with the market. Good agricultural land can be bought for from $15 to $25 per acre, though a large portion is held at much higher rates.

Number of acres of land under cultivation, 83,300; wheat, 1,720,400 bushels; barley, 66,400 bushels; oats, 162,250 bushels; corn, 9,150 bushels; potatoes, 120 tons; hay, 310,020 tons; wool, 38,075 pounds. Total valuation, $7,665,955; population, 10,300; voters, 1,720. Martinez is the county seat; fare from the city, $1.25.

Del Norte County

Is about fifty miles long east and west, and thirty miles wide. It contains a number of small fertile valleys, and a large extent of rich prairies, together with 3,500 acres of swamp and overflowed lands. The county is well timbered with redwood, spruce and pide. Fruit, grain and vegetables of all descriptions flourish here. Land for agricultural purposes can be purchased cheap.

Lands under cultivation, 2,576 acres; wheat, 8,250 bushels; barley, 8,300 bushels; oats, 30,-

148 bushels; corn, 1,575 bushels; potatoes, 452 tons; hay, 1,774 tons; butter, 6,560 pounds; wool, 2,050 pounds; neat cattle, 2,428; sheep, 596; hogs, 705; saw mills, 9; lumber, 8,125,000 feet; shingles, 50,000. Total valuation, $697,565; population, 6,000; voters, 500.

El Dorado County.

This county has an area of nearly two thousand square miles. The inhabitants of this county are generally employed in mining and lumbering. Nearly all the cereals, fruits and vegetables are raised in the valleys and on the alluvial flats under cultivation. Nearly one-half of this county would be adapted to agricultural purposes if cleared of timber. The immigrant in search of a farm can obtain one at a small expense—or for nothing—in this county, by settling on a tract of timber land. The county abounds in good wagon roads, and communication with all parts of the State is easy. The climate is pleasant, the soil fertile, and large tracts are still open to the agriculturist in search of a farm.

Land under cultivation, 13,706 acres. Products: Wheat, 6,230 bushels; barley, 2,297 bushels; oats, 716 bushels; hay, 5,096 tons; butter, 125,770 pounds; cheese, 8,000 pounds; potatoes, 5,490 tons; wool, 29,730 pounds ; grapevines, 1,420,255; wine, 123,915 gallons; brandy, 3,650 gallons; neat cattle, 7,322; sheep, 13,152, hogs, 1,858; saw mills, 11; lumber, 1,628,500 feet. Total valuation, $2,494,622; population, 10,000; voters, 3,933.

Placerville is the county seat of El Dorado county. It is a city of 4,000 inhabitants. It is one hundred and eighty miles from San Francisco.

Fresno County,

Fresno county is 120 miles in length, with an average width of 65 miles, and contains 5,200,000 acres of pastoral, agricultural and mineral lands. The greater portion of this county is included in the fertile San Joaquin valley. There are 20,000 acres of tule land in this county, which are capable of reclamation, which will render them among the most valuable in the world. This county offers immense advantages to the intending settler, and will doubtless, ere long, be covered with the homes of a prosperous agricultural population. There is much rich land for sale and lease, on easy terms. This tract comprises some of the best wheat land in the State, and the produce of a farm would, in one or two years, pay back to the purchaser the money he expended in obtaining possession of it. There are many miles of the richest land in California in the vicinity of King's river, and, in fact, in all parts of this county.

Land under cultivation, 47,000 acres. Products: Wheat, 180,550 bushels; barley, 234,000 bushels; oats, 12,730 bushels; rye, 2,400 bushels; corn, 8,500 bushels; potatoes, 160 tons; sweet potatoes, 16 tons; hay, 4,780 tons; butter, 9,650 pounds; cheese, 3,400 pounds; wool, 1,970,485; honey, 3,500 pounds; grapevines, 26,760; neat cattle, 49,820; sheep, 576,456; hogs, 12,638; flour, 1,400 barrels; saw mills, 6; lumber, 3,600,000 feet. Total valuation, $2,494,622; population, 10,000; voters 3,933.

Humboldt County.

It is 56 miles long, north and south, and 50 miles wide, containing 1,800,000 acres of land of which about 500,000 are suited to agricultural, and 300,000 to grazing purposes, there being about 5,000 acres of swamp or overflowed land near tide water. This latter will doubtless occupy the attention of the Tide Land reclamation company, when it extends its sphere of operations. The land near the coast is covered with heavy forests of redwood, spruce and pine. The county abounds in bears, elk, deer and other game. Some of the valleys in this county produce 70 bushels of wheat to the acre, weighing 61 pounds to the bushel, and over 100 bushels of oats, weighing 44 pounds to the bushel; this is not an unusual yield. Fifteen tons of potatoes to the acre is not over an average crop. The salmon fishery at the mouth of Eel river is the most profitable in the State, the annual catch ranging from 1,100 to 3,000 barrels. Much of the land is well adapted for dairy farms. Good roads, connecting this county with the Sacramento valley, are being built. Land is very cheap, and extremely rich; much is still open to pre-emption. This county offers great inducements to the immigrant, and will, doubtless, within a short time, be thickly settled.

Land under cultivation, 16,540 acres. Wheat, 40,000 bushels; barley, 21,000 bushels; oats, 253.000 bushels; corn, 9,600 bushels; potatoes, 183,336 tons; hay, 8,850 tons; butter, 90,000 pounds; cheese, 4,500 pounds; wool, 219,000 pounds; grapevines, 4,600; neat cattle, 25,605, sheep; 73,148; hogs, 7,506; mills, 13; lumber, 50,000,000 feet; shingles, 10,000,000. Total valuation, $4,407,043; population, 12,420; voters, 2,448. This county offers, also, special inducements to settlers. It is in the Humboldt land district, Eureka being the land office. Two steamers per week leave San Francisco for this point.

Inyo County.

This county is noted for its fine agricultural lands in the valley of Owen's lake. It extends from the mouth of Owens river the whole length of the valley north into Mono county, but, owing to the great distance from any other agricultural district, the cereals bring a large price on the ground for home consumption, freight from Los Angeles being six cents per pound to Independence and Cerro Gordo, the latter being the great mineral district of the State for lead and silver.

The county seat of Inyo county is Independence, distant about 520 miles from San Francisco. It is reached by rail to Gilroy, and thence by stage; fare $64.

Land under cultivation, 9,194 acres; wheat, 31,666 bushels; barley, 25,120 bushels; oats, 21,250 bushels; corn, 59,846 bushels; potatoes, 257 tons; hay, 3,711 tons; butter, 4,500 pounds; wool, 890 pounds; grapevines, 15,485; neat cattle, 12,032; sheep, 3,576; hogs, 1,435; saw mills, 3; lumber, 982,657 feet; shingles, 165,000. Total valuation, $1,471,215; population, 3,200; voters, 797. In this county are situated the famous Panamint mines, the Coso, the Cerro Gordo, the Sunrise and others. Developments made in them establish the fact that there exists in these mountains a fabulous amount of all kinds of precious metals. Silver ore predominates, and a year hence these mines will rival the famous "Comstock Lode" in Nevada.

Kern County.

Kern county comprises about 1,500,000 acres, nearly one-half of which is adapted to agricultural and grazing purposes. It abounds in fine timber, is well watered by streams which flow from the mountains, and is destined to become one of the best agricultural counties in the State. Its progress has hitherto been checked for the want of roads, but lately this has been supplied, and communication with a market has been opened. Within a short time a railroad will traverse the whole length of the county. The soil is well adapted to the culture of wheat, sixty bushels to the acre being no uncommon crop. Much of the land is suited to the cultivation of cotton, and good crops have been raised. Ere long a flourishing agricultural community will spring up in the heart of the now sparsely inhabited Kern valley.

Land under cultivation, 15,025 acres; wheat, 189,200 bushels; barley, 125,464 bushels; oats, 9,045 bushels; rye, 2,040 bushels; corn, 50,000 bushels; potatoes, 323 tons; sweet potatoes, 242 tons; hay, 70,996 tons; butter, 23,450 pounds; wool, 1,000,000 pounds; sheep, 225,704; neat cattle 46,074. Population, 6,000; total valuation, $4,407,043; voters, 1,000.

Kern county offers many inducements for immigrants during the present year. Some valuable mineral discoveries are being made, which will make this a famously rich portion of the State. These minerals are gold, silver and lead, and are said to exist here in inexhaustible quantities. Bakersfield is the county seat.

Lake County.

It is about sixty miles in length, with an average width of fifteen miles, and contains a population of 4,100. Good land is held at from twenty dollars to fifty dollars per acre. Clear lake abounds in fish and wild fowl. There are many dairy farms in this county, and the cheese produced has a high reputation.

There are important milling interests in this county.

Land under cultivation, 10,419 acres: Wheat, 82,320 bushels; barley, 44,121 bushels; oats, 4,500 bushels; corn, 7,565 bushels; hay, 6,294 tons; butter, 14,500 pounds; cheese 18,000 pounds; wool, 89,575 pounds; grapevines, 46,917; neat cattle, 5,366; sheep, 19,429; saw mills, 9; lumber, 35,000 feet; shingles, 400,000. Total valuation, $1,919,120.

Lassen County.

This county is chiefly rugged mountains, alkali flats, and arid sage plains, the only considerable body of good land in it being that lying along, and adjacent to, Susan river, generally denominated Honey Lake valley, with a narrow strip in Long valley further south. Long valley is a fine stock region, affording pasturage for thousands of head of cattle. Honey Lake valley produces grain in abundance, and comprises some fine grazing land. The quantity of land suited for this purpose being so limited, we cannot recommend the agriculturist to turn his attention to Lassen county.

Amount of land under cultivation, 5,312 acres: Wheat, 30,824 bushels; barley, 48,185 bushels; oats 40,856 bushels; corn, 185 bushels; potatoes, 127 tons; hay, 9,856 tons; butter, 52,174 pounds; cheese, 9,112 pounds; wool, 60,185 pounds; grapevines, 3,640; neat cattle, 1,577; sheep, 24,972; hogs, 789; saw mills, 5; lumber, 300,000 feet; shingles, 95,000. Total valuation, $1,165,274; population, 2,200; voters: 686.

Los Angeles County.

The most important of the southern counties of California is Los Angeles. It comprises nearly 2,000,000 acres, nearly two-thirds of which are fit for cultivation or grazing purposes. Much of the land now used for grazing, would, if brought into cultivation, yield large crops. The price of land ranges from $1 to $100 per acre. There are still large tracts of land in the possession of the Spanish settlers, which can be bought at the former figure. Los Angeles is a perfect pardaise for farmers, and, when it is connected with San Francisco by railroad, every acre will be brought under cultivation. A railroad connects Los Angeles with Wilmington, a seaport in the harbor of San Pedro, distant twenty-one miles.

Land under cultivation, 54,000 acres: Wheat, 13,600 bushels; barley, 376,000 bushels; oats, 2,000 bushels; rye, 5,000 bushels; corn, 565,000 bushels; wool, 2,000,000 pounds; grapevines, 4,250,000; orange trees, 34,700; gallons wine, 1,460,000; gallons brandy, 50,000; population, 21,500; voters, 6,300. Total valuation, $12,080,366.

Mariposa County,

Like Tuolumne, is a mining county, being very mountainous, and but a small proportion of its area is adapted to agriculture. It will be remembered as the county made famous by the celebrated Fremont claim. Mining has been carried on this county with varied success ever since the gold fever of 1849. It is two hundred and ten miles from San Francisco, and can be reached by either rail or boat to Stockton, and thence by stage to Mariposa, the county seat; fare about $10.

Land under cultivation, 8,400 acres. Products: Wheat, 1,725 bushels; corn, 200 bushels; potatoes, 350 tons; hay, 5,000 tons; butter, 7,000 pounds; wool, 100,000 pounds; grapevines, 350,000; wine, 12,000 gallons; brandy, 1,500 gallons; neat cattle, 7,885; sheep, 56,048; hogs, 3,355. Total valuation, $7,408,438.

Marin County.

Marin county is very hilly, but abounds in fertile valleys. It is one of the best dairy counties in the State, and produces more butter than any other. It contains about 600 square miles, nearly 400,000 acres. The owners of land in this county generally hold it at high prices; grazing farms in the hills may, however, be bought at a reasonable figure, and the profits on dairy products are so large that almost any farm will pay for itself and cost of stocking in two or three years.

In this county there is a paper mill and a powder mill. The former was erected in 1856, and the latter in 1866.

The State Prison, is situated in this county on Point San Quentin, twelve miles from San Francisco.

Number of acres of land under cultivation, 15,697; wheat, 44,163 bushels; barley, 27,688 bushels; oats, 223,258 bushels; potatoes, 1,488 tons; hay, 3,633 tons; butter, 2,336,220 pounds; cheese, 31,216 pounds; wool, 4,265 pounds; neat cattle, 29,051; sheep, 1,365. Population, 10,000; total valuation, $7,488,438.

San Rafael is the county seat, 15 miles distant from San Francisco, and is reached by steamer and rail in one hour; fare fifty cents.

Mendocino County

Contains over 2,000,000 acres, of which 900,000 are fit for cultivation, and 200,000 are good grazing lands, the balance being composed of rugged hills and lofty mountains. The lumber trade n this county gives employment to one-half its population. There is in this county a considerable amount of land suited to agricultural purposes, still unclaimed, and open to pre-emption. The scarcity of good roads is one cause why this rich county is still uninhabited. All descriptions of grain, fruit and vegetables can be raised. Much of the land open to pre-emption is covered with thick forests, the lumber from which will amply repay the settler for his labor. The country everywhere swarms with game of all descriptions, and delicious fish are caught in the streams and lakes. To the immigrant of small means this county offers tempting inducements, and the network of railways which is fast spreading over the State must ere long be extended to this section. Corn, hemp and tobacco grow vigorously in the valleys. The forests supply abundant feed for hogs, which are raised in large numbers. Land, not far from Ukiah City, the county seat, which will soon be connected with Napa valley by railroad, is cheap, the price of good improved farms varying from $5 to $20 per acre. Large tracts of grazing lands have recently been entered in this county, one of the most valuable of which has been claimed and entered by Francis Avery & Co., of San Francisco, and is known as the beautiful "Eden valley."

Land under cultivation, 20 907 acres; wheat, 86 573 bushels; barley, 77,842 bushels; oats, 33,560 bushels; corn, 9,284 bushels; potatoes, 2,024 tons; hay, 10,953 tons; butter, 64,000 pounds; hops, 110,900 pounds; cheese, 3,800 pounds; wool, 656,508 pounds; hogs, 11,041; sheep, 118,976; neat cattle, 18,712; saw mills, 18; lumber, 60,000,000 feet; shingles, 2,500,000. Total valuation, $5,424,012; population, 9,500; voters, 2,876.

In Mendocino county there is a large amount of unoccupied government land, although not all of it is yet surveyed. It offers special inducements to the home seeker. The route is *via* the S. F. & N. P. R. R. to Cloverdale, thence by stage to Ukiah; fare, $7.75. It is in the San Francisco land district.

Merced County

Is about sixty miles in length east and west, with an average breadth of twenty miles, forming an area of 1,075,200 acres. The Merced and San Joaquin rivers run through it. In 1868 the amount of land enclosed was 135,000 acres, 33,000 of which were under cultivation. Grain, fruit, and vegetables of all descriptions are produced, and large quantities of stock are raised. There is much good land in this county obtainable at a low price.

Land under cultivation, 201,495 acres. Products: Wheat, 865,530 bushels; barley, 310,752 bushels; oats, 200 bushels; rye, 1,220 bushels; corn, 21,780 bushels; potatoes, 97 tons; sweet potatoes, 161 tons; onions, 430 tons; hay, 6,805 tons; butter, 58,530 pounds; cheese, 102,000 pounds; wool, 1 658,275 pounds; honey, 1,550 pounds; grapevines, 175,982; wine, 7,930 gallons; brandy, 1,170 gallons; neat cattle, 14,878; sheep, 330,652; hogs, 4,962. Total valuation, $6,897,903: population, 6,000; voters, 1,663.

Modoc County

Is situated on the western boundary of the State, and received its name from the Indians of that tribe, which were so notorious a few years since for their savage propensities, and the fact that a small band of them defied the entire power of the government. Although in the extreme northern portion of this county there is no land which is valuable for agricultural purposes, there is much that is good within the limits of the county, and which will eventually be settled upon. Its remoteness from market lines of railroad travel, and the sea board has prevented its development, but the fact that it is well watered and timbered will ultimately make it desirable for agriculture and residence. The climate is healthy, although in winter there are occasional snow storms which remind the settler from the Eastern States of his old home. Yet the snows are light and seldom remain on the ground over one or two days. The nearest point on the railroad is Redding, on the line of the C. P. R. R.

Land under cultivation, 18,200 acres. Products: Wheat, 140,800 bushels; barley, 210,800 bushels; oats, 150,600 bushels; rye, 1,080 bushels; corn, 160 bushels; potatoes, 1,150 tons; hay, 8,600 tons; butter, 16,000 pounds; cheese, 3,800 pounds; wool, 66,400 pounds; grapevines, 2,080; neat cattle, 18,223; sheep, 22,800. Total valuation, $1,003,745; population, 2,400; voters, 689.

Mono County.

There is much fertile and valuable land in the county, but its distance from market, and the difficulty attending the transportation of produce, has prevented the development of Mono county. There is a beautiful valley stretching through the county, for some sixty miles north of the Inyo county line, which is some fifteen or twenty miles wide, and perhaps not excelled for agricultural purposes by any valley in the State. The Bishop Creek country is in this valley. Grist mills and saw mills are dispersed through it. It has the reputation of producing the strongest and best flour in the State. There is a considerable quantity of corn and barley raised, as also vegetables. The resources of the county are by no means fully developed at the present time, and there is every reason to think the soil of this county is well adapted for the growth of the grape.

Land under cultivation, 720 acres. Products: Wheat, 4,600 bushels; barley, 3,800 bushels; oats, 7,000 bushels; hay, 4,555 tons; butter, 555 pounds; wool, 2,500 pounds; neat cattle, 10,807; sheep, 2,039; hogs, 174; saw mills, 5; lumber, 10,000,000 feet; shingles, 100,000. Total valuation, $545,892; population, 6,000; voters, 269.

The county seat of Mono county is Bridgeport, distant two hundred and eighty-six miles from San Francisco. It is reached by rail or boat to Stockton, thence by stage.

Monterey County.

This county averages nearly eighty miles in length by fifty in width, and contains about 2,500,000 acres. Seven hundred thousand acres are good agricultural land. The greater portion of the county is devoted to sheep and cattle raising, and still remains in the hands of the Spanish settlers, from whom large tracts suitable for farms can be purchased at from $1 to $2 per acre. Wheat can be raised in large quantities in this county, and every variety of fruit and vegetable flourishes.

Land under cultivation 121,240 acres; wheat, 2,424,800 bushels; barley, 962,500 bushels; oats, 22,000 bushels; rye, 297,000 bushels; corn, 27,000 bushels; butter, 21,900 pounds; cheese, 16,000 pounds; neat cattle, 7,974. Total valuation, $8,028,824; population, 13,950; voters, 3,100.

Napa County.

Napa county contains about 450,000 acres, of which nearly one-half is valley and upland suitable for cultivation. There is much rich land in this county, which may still be bought at a low price, though the opening of roads of late has tended greatly to enhance the value of real estate. In the valley, farms are from $25 to $100 an acre. Napa is a great vine-growing county, 1,590,255 vines being raised.

In this county are the famous Napa soda springs, owned by Col. John P. Jackson. They are unrivalled by any similar springs in the United States, and the water is eagerly sought after by invalids of all descriptions. The water is bottled and sent to every city and town on the Pacific coast, and is shipped east of the mountains.

Land under cultivation, 14,015 acres; wheat, 495,900 bushels; barley, 117,210 bushels; oats, 36,135 bushels; rye, 235 bushels; corn, 65,320 bushels; potatoes, 105 tons; hay, 12,100 tons; butter, 127,500 pounds; hops, 76,500 pounds; cheese, 13,200 pounds; wool, 103,100 pounds; apple trees, 62,945; grapevines, 3,108,590; wine, 433,885 gallons; brandy, 11,300 gallons; neat cattle, 7,974; sheep, 33,743. Total valuation, $8,028,824; population, 13,950; voters, 3,100.

County seat is Napa City, forty-four miles from San Francisco; fare, *via* steamer and rail, $2.

Nevada County.

Nevada county is sixty-five miles in length east and west, and fifteen in breadth, covering an area of about one thousand one hundred square miles. The county is very picturesque, having many rolling prairies, wooded mountains, and beautiful valleys. It is well timbered, and the forests abound in flowering scrubs. The soil on the uplands is of a rich, ferruginous loam, that of the bottoms a dark vegetable alluvium, well adapted for the culture of fruit. Considerable quantities of grain are raised, and large portions of the land are devoted to the culture of the vine. The chief industrial interest of the county is quartz mining. Good farming land may be bought at a very moderate figure in many parts of the county, and a ready market obtained for agricultural products.

Land under cultivation, 15,500 acres; potatoes, 3,000 tons; hay, 3,000 tons; grapevines, 3,340.000; wine, 20,000 gallons; neat cattle, 6,840; sheep, 2,122; hogs, 1,075; saw mills, 27; lumber, 50,000,000 feet; shingles, 25,000,000. Total valuation, $8,684,078; population, 19,500; voters, 6,000. The returns of the assessor are so meagre that the above information is all that can be had.

The county seat of Nevada county is Nevada City, one hundred and ninety-one miles from San Francisco.

Placer County.

Placer county is eighty miles in length, east and west, having an average width of but fourteen miles. Placer contains a good amount of agricultural land, its western part being wholly devoted to farming, sheep, hog and cattle raising. It is well timbered, and much of the forest land when cleared will be found well adapted to agricultural purposes. The chief industry of the county is mining, and here we must observe that in these mining counties the immigrant in search of a farm is most likely to find land unsettled, which he can pre-empt, or tracts which he can purchase at a nominal figure.

Land under cultivation, 45,033 acres. Products: Wheat, 199,224 bushels; barley, 70,805 bushels; rye, 4,490 bushels; corn, 1,517 bushels; potatoes, 16½ tons; butter, 18,405 pounds; hay, 4,490 tons; cheese 1,000 pounds; wool, 103,725 pounds; grapevines, 806,642; wine, 59,812 gallons; neat cattle, 5,880; sheep, 50.901; hogs, 3,202; saw mills, 25; lumber, 21,670,000 feet; shingles, 2,619,000. Total valuation, $6,781,966; population, 18,325; voters, 3,552.

Plumas County.

Plumas county has an area of about two thousand square miles. This county is covered with forests of pine, and is one of the best timbered counties in the State. It contains many well sheltered, fertile valleys, and much rich meadow land, suitable for agricultural and grazing purposes. A railroad, which is shortly to be carried though Beckworth's pass, over the Sierra, will bring the products of the land within reach of a market. There are over one hundred thousand acres of land under fence, and planted to grain and vegetables. Land can be bought here at a low price, and the forest land is open to pre-emption.

Land under cultivation, 3,578 acres. Products: Wheat, 10,483 bushels; barley, 5,594 bushels; oats, 44,135 bushels; corn, 2,000 bushels; potatoes, 210 tons; hay, 10,708 tons; butter, 205,700 pounds; cheese, 4,000 pounds; wool, 27,141 pounds; grapevines, 125; neat cattle, 8,222; sheep, 3,712; hogs, 488; saw mills, 6; lumber, 800,000 feet. Total valuation, $1,414,121; population, 5,000; voters, 1,087.

Quincy is the county seat of Plumas county. It is two hundred and seventy-six miles from San Francisco.

Sacramento County.

Its average length measured north and south is thirty-six, and its width about thirty miles; giving it a superficial area of six hundred and ninety-one thousand two hundred acres. There is scarcely an acre of land in this county which is not susceptible of cultivation. Stretching along the Sacramento river is a belt of tule land, which in some parts is fifteen miles in breadth. This land, when free from overflow, produces the largest crops of any in the State; we hope soon to see it brought into cultivation, through the efforts of the Tide Land Reclamation company, which has already bought a large portion of it with that end in view. Though land in this county is deservedly held at a high figure, in consequence of its fertility, the ample facilities for bringing its products to a market, and other advantages, there are still many opportunities offered the immigrant in search of a farm to obtain possession of a tract of fertile land at a moderate price.

Land under cultivation, 60,610 acres. Products: Wheat, 171,844 bushels; barley, 350,797 bushels; oats, 44,676 bushels; rye, 50 bushels; corn, 52,300 bushels; peanuts, 8,000 pounds; potatoes, 6,490 tons; sweet do., 1,873 tons; onions, 6,855 bushels; hay, 22,373 tons; butter, 231,445 pounds; cheese, 81,800 pounds; wool, 331,935 pounds; grapevines, 2,132,975; wine, 160,898 gallons; brandy, 2,595 gallons; neat cattle, 15,391; sheep, 136,753; hogs, 4,876; flour, 204,480 barrels. Total valuation, $23,708,990; population, 36,000; voters, 7,000.

The county seat of Sacramento county is Sacramento—the capital city of the State—containing 20,000 inhabitants. Sacramento is reached by steamer to Vallejo, and thence by railroad; fare $4 or by steamer direct, $1.50.

San Benito County.

This county has been organized but a short time comparatively, and was taken from Monterey county. Its locality is a good one and it is one of the fairest counties we have. The returns for 1873-4, by the County Assessor, make the following showing: 160,000 acres of land inclosed and 60,000 acres under cultivation. Products: Wheat, 480,000 bushels; barley, 200,000 bushels, oats, 6,000 bushels; corn, 2,000 bushels; potatoes, 195 tons; hay, 6,000 tons; butter, 22,900 pounds; cheese, 31,000 pounds; wool, 359,745 pounds; honey, 300 pounds; apple trees, 16,476; peach trees, 11,840; pear trees, 1,600; plum trees, 1,125; cherry trees, 876; nectarines, 700; grapevines, 376,440; wine, 3,000 gallons; brandy, 300 gallons; neat cattle, 6,248; sheep, 71,349; flour, 5,650 barrels. Total valuation, $4,557,507; population, 5,000; voters, 1,975.

The county seat is Hollister, which contains a population of 2,000 inhabitants, and is a thriving prosperous town. Hollister is situated on a branch of the S. P. R. R., ninety-four miles south from San Francisco.

San Bernardino County.

San Bernardino is the largest county in the State, containing over 10,000,000 acres, three-fourths of which is unfit for cultivation, containing desert valleys and volcanic rocks. The land still open for pre-emption is being taken up so rapidly at the present time, that is impossible to make an y record of the quantity still unsettled. The emigrant in want of a farm, will find no difficultyin purchasing from the owners of the numerous large ranchos in this county, rich agricultural land at from $1 to $2 per acre. The whole population of the county does not at present exceed 6,000.

In this county, which is admirably suited to the raising of the grape, is the famons Cucamongo vineyard, situated about forty-five miles east from Los Angeles. It contains 160,000 vines, some of which are the oldest in the State. These vines grow at the foot of volcanic hills, in a mixed black soil of rocks and gravel. The vineyard produces port, angelica, and a white wine which bears a resemblance to Madeira. This wine is the most matured and least crude of any California wine, and after it has attained the age of ten years, is equal to the best Madeira. The superiority is partly due to the nature of the soil and climate, but chiefly, we are inclined to think, to the great age of the vine; young vines as a rule make raw, crude wine which no age will soften, while those which have by age attained substantial stems, make a wine more resembling the old wines of Europe.

In the mountains north of San Bernardino, are fine bodies of timber, and several mills in active operation. These forests in time must supply much of the material needed on a Southern Pacific railroad.

Land under cultivation, 10,000 acres; wheat, 31,000 bushels; barley, 93,925 bushels; oats, 1,600 bushels; corn, 1,600 bushels; potatoes, 186 tons; sweet do., 33 tons; wool, 32,000 pounds; grapevines, 600,000; wine, 125,000 gallons; brandy, 4,000 gallons; population, 36,000. Total valuation, $7,962,281; voters, 7,000.

San Diego County.

San Diego comprises the most southern portion of the State. It is one hundred miles in length, and one hundred and fifty miles in breadth at its most southern extremity, which separates it from Lower California. It contains 8,500,000 acres, of which the Colorado desert covers 2,500,000 acres, about 4,000,000 acres are mountains and canons, and the balance, 2,000,000 acres, are level plains and valleys suitable for farming or grazing. Most of the land is yet unoccupied. Some discoveries of gold and silver have recently been made which has drawn a large crowd of prospectors. The developments hitherto do not indicate the presence of precious metals to a very considerable extent. In consequence of a strong belief that the port of San Diego will be the terminus of the projected Memphis and El Paso railroad, quite a lively town has sprung up called New San Diego; the population is estimated to be 2,000 and upwards. The county seat is San Diego, or as it is now called, Old San Diego, is situated about two miles north of the new town, and contains between 300 and 400 inhabitants. The old town was established by the Missionaries in 1769. The county is very thinly populated, and consequently its resources are undeveloped; but public attention having been directed thither of late, many large tracts of land have been taken up, and there is quite a lively competition among real estate operators. The harbor of San Diego is second in size to that of San Francisco, and is equally secure, being perfectly land-locked. Vessels of any size can enter and ride safely at anchor. San Francisco and San Diego harbors are really the only two in California; all the others along the coast partake rather of the character of roadsteads. The climate is delightful, and particularly beneficial to invalids suffering from pulmonary diseases.

Cultivated lands, 20,714 acres. Products: Wheat, 103,120 bushels; barley, 45,560 bushels; oats, 6,000 bushels; corn, 10,770 bushels; wool, 516,156 pounds; grapevines, 100,201; neat cattle, 18,632; sheep, 114,857. Total valuation of property, $3,069,383; population, 10,000; voters, 2,300.

San Francisco County.

San Francisco is the smallest, but most important county in the State. It is the northern end of a peninsula formed by the bay of San Francisco on the east, and the Pacific ocean on the west. It covers an area of 26,861 acres. The land adjacent to the city of San Francisco is principally occupied by market gardeners, but there are a few small farms in the county.

San Francisco City is the metropolis of the State of California, the grand center of commerce, navigation, manufactures, arts, science and literature. No other city in the world is composed of so cosmopolitan a population, or can boast of such remarkable rapidity in development. A quarter of a century ago it was a small village containing less than 100 inhabitants. Its progress dates from the American occupation of California in 1846, followed by the discovery of gold two years later. In 1847 the population numbered 459. Some very elegant and costly buildings attest the wealth and taste of the community; among the most prominent are the Mercantile Library, Merchants' Exchange, Bank of California, California Theatre, the Palace, Lick, Cosmopolitan, Occidental, and Grand hotels, and Bancroft's mammoth publishing house. The public markets are liberally supplied. There are numerous benevolent societies, represented by almost every nationality; they are well managed, and are of great service in checking pauperism. Many have hospitals connected with them. There are six cemeteries, the largest of which is Laurel Hill (late Lone Mountain.) The public schools are the pride of the city, and are maintained at a cost of nearly half a million dollars per annum.

The city is traversed in all directions by street railroads. The North Pacific transportation company run steamers to all points along the coast, from Mazatlan in Mexico, to Victoria in the British Possessions, and to Alaska, also to the Sandwich Islands. The Pacific Mail steamship company run steamers to Panama, connecting with steamers to New York and Europe, also a monthly line to China and Japan, with expectation of running two a month. A line of steamers is also established to run to Australia and New Zealand, *via* Honolulu, Sandwich Islands, and ships of any size can enter and ride safely at anchor in the harbor, and trade is kept up with all parts of the world. Goodall, Nelson & Perkins' line of steamers run to all points on this coast, north and south.

Total valuation, $267,872,646; population, 200,000; voters, 44,140.

San Joaquin County.

San Joaquin is about forty miles in length, by thirty-five in width. Is almost exclusively an agricultural county. Of the 896,000 acres comprised within its limits, over three-fourths are capable of producing good crops of grain. There are 200,000 acres of tule land, which, when reclaimed, will add much to the wealth of the county. Every variety of fruit and vegetable is grown here. There is much rich land in this county which can be bought at from $2.50 to $10 per acre.

Lands under cultivation, 246,250 acres. Products: Wheat, 2,225,000 bushels; barley, 560,000 bushels; oats, 29,000 bushels; rye, 8,000 bushels; corn, 7,260 bushels; potatoes, 500 tons; onions, 2,500 bushels; hay, 19,000 tons; butter, 175,000 pounds; cheese, 9,000 pounds; wool, 352,352 pounds; grapevines, 1,000,000; wine, 71,000 gallons; brandy, 2,138 gallons; neat cattle, 16,985; sheep, 74,137; hogs, 1,200; flour, 84,000 barrels. Total valuation, $20,426,121; population, 25,000; voters, 5,450.

The county seat of San Joaquin county is Stockton, a city of 10,000 inhabitants. It is one hundred and ten miles from San Francisco. Route, *via* Central Pacific railroad to Stockton; fare $3.

San Luis Obispo County.

This county contains an area of about 1,500,000 acres, of which a large portion is mountainous and is admirably adapted for grazing, there being fine grasses and well supplied with water. Land is cheap in this county, and government land may be had as homestead or preemption.

Land under cultivation, 40,000 acres; wheat, 1,000 bushels; barley, 750,000 bushels; corn, 7,500 bushels; wool, 1,281,115 pounds; cheese, 500,000 pounds; beans, 2 500 bushels; sheep, 256,223; neat cattle, 37,908. Total valuation, $4,640,876; population, 25,000.

San Mateo County.

San Mateo county embraces nearly the whole of the peninsula of San Francisco, which separates the bay from the Pacific ocean. It is over thirty miles in length. It was organized in 1856, when it was separated from San Francisco, to which county it formerly belonged. It contains 154,908 acres. The land is very fertile, and produces large crops of grain, as well as immense quantities of fruit and vegetables. There are in this county a large number of private mansions, surrounded by beautiful gardens. The price of land is high. The chief resources are grain and lumber.

San Francisco obtains its supply of fresh water for domestic purposes from Pillarcitos creek, in this county, distant about twenty miles from the city. Extensive works have been constructed for collecting and distributing the water, which is very pure and wholesome.

Land under cultivation in this county, 33,115 acres; wheat, 127,215 bushels; barley, 120,261 bushels; oats, 352,700 bushels; corn, 1,200 bushels; potatoes, 9,340 tons; beans, 1,420 bushels; hay, 6,508 tons; butter, 372,150 pounds; cheese, 44,000 pounds; grape vines, 140,260; neat cattle, 11,675; saw mills, 12; lumber, 6,720,650 feet; shingles, 32,167,520. Total valuation, $8,636,527; population, 11,215; voters, 2,243.

The county seat of San Mateo county is Redwood City, distant twenty-eight miles from San Francisco, and connected with it by railroad three times a day. Stages run from here to Searsville and Woodside.

Santa Barbara County.

Santa Barbara county contains about 1,500,000 acres, one-half of which are unfit for agricultural purposes, but are admirably adapted for sheep or cattle. This is one of the most important grazing counties in the State; cattle, sheep, horses and hogs are raised by thousands. Land can be obtained at from $1 to $5 per acre.

Land under cultivation, 28,390 acres; wheat, 168,229 bushels; barley, 286,365 bushels; corn, 43,496 bushels; wool, 1,725,944 pounds; sheep, 431,486. Total valuation, $6,010,309. Population, 10,000; voters, 2,345. Distance from San Francisco, 280 miles.

Santa Clara County.

This county contains 700,000 acres, most of which is in a high state of cultivation, and held at prices which place it beyond the reach of the farmer of small means. The most beautiful farms in the State are to be found here, surrounded by fruit trees of all descriptions, and well irrigated meadows (the water being procured from artesian wells); some of the most picturesque and charming homes in California are in this county. Wheat, hops, grapes and mulberry trees are among the varied products of Santa Clara. Land is as high as from $300 to $500 per acre.

Land under cultivation, 208,432 acres; wheat, 1,632,762 bushels; barley, 127,239 bushels; ats, 13,186 bushels; rye, 2,172 bushels; corn, 5,307 bushels; hay, 46,837 tons; hops, 346,320 unds; butter, 47,423 pounds; potatoes, 3,703 tons; wool, 102,275 pounds; apple trees, 500,000; pevines, 1,273,085; wine, 128,329 gallons; brandy, 72,436; neat cattle, 45,594; mills, 5; lum- 19,137,230 feet. Total valuation, $31,707,566; population, 30,000; voters, 8,795.

San Jose is the county seat, is the most beautiful city in America, is fifty miles distant from San Francisco, and can be reached from the city either by boat or rail. Fare by rail, $2; boat, $1.

Santa Cruz County.

The county of Santa Cruz is more celebrated for its manufactures than for its agricultural products, though it contains some of the richest lands in the State. It comprises 320,000 acres, of which 40,000 acres are the richest bottom lands along the various streams that pass through it, and 50,000 acres of agricultural land which form terraced plateaus caused by the repeated uprisings of the land. Land in this county generally commands a high price, from $5 to $50 an acre. There are seven tanneries in Santa Cruz; the California powder works are located here, as well as paper mills and other manufactories.

Land under cultivation, 19,971 acres; wheat, 201,150 bushels; barley, 168,800 bushels; oats, 73,025 bushels; rye, 2,231 bushels; corn, 22,317 bushels; potatoes, 1,940 tons; butter, 112,470 pounds; cheese, 27,360 pounds; grapevines, 262,275; wine, 70,000 gallons; brandy, 1,200 gallons; neat cattle, 2,469; sheep, 1,690; saw mills, 20; lumber, 27,600,000 feet; shingles, 9,500,000. Total valuation, $7,250,650; population, 10,000; voters, 2,078.

The county seat is Santa Cruz; distant from San Francisco, seventy-six miles; two steamers per week leave the city for this point. The manufacturing interests of this county are important, there being powder mills, paper mills and tanneries here which do a large business. The best lime in the State is made at this point.

Shasta County.

The county is watered by the Sacramento river, and is one of the best irrigated counties in the State. Ten thousand acres planted to wheat, yielded 250,000 bushels; seven thousand acres planted to barley, 190,000; and two thousand planted to oats, 50,000. Fruit is produced in abundance; the fig, pomegranate and almond thrive in the open air. Shasta has produced the best tobacco grown in the State. Large forests cover the northern and western portions of the county. This land is open for pre-emption, and when cleared will provide fertile farms for many immigrants. Hogs and sheep are raised in large numbers, and there are many fine dairy farms. While much of the land is held at high rates, farms can be obtained in many parts of the county at prices adapted to the farmer of small means.

Land under cultivation, 19,971 acres; wheat, 201,150 bushels; barley, 168,800 bushels; oats, 73,025 bushels; rye, 2,231 bushels; corn, 22,377 bushels; potatoes, 1,940 tons; hay, 3,120 tons; butter, 112,470 pounds; cheese, 27,360 pounds; grapevines, 1,336; wine, 150 gallons; neat cattle, 5,288; sheep, 2,460; hogs, 615; saw mills, 20; lumber, 6,500,000 feet; shingles, 290,000. Total valuation, $2,295,317; population, 5,000; voters, 2,292.

Sierra County.

This county, in soil, climate and topography, much resembles Plumas county. Sierra county presents but few inducements to the farmer, there being but a very small amount of agricultural land within its limits, and the climate being excessively cold.

Land under cultivation, 2,995 acres. Products: Wheat, 28,306 bushels; barley, 15,219 bushels; oats, 12,500 bushels; rye, 200 bushels; hay, 9,729 tons; butter, 90,000 pounds; cheese, 1,100 pounds; wool, 3,874 pounds; grapevines, 1,336; wine, 150 gallons; neat cattle, 5,288; sheep, 2,460; hogs, 615; saw mills, 20; lumber, 6,500,000 feet; shingles, 290,000. Total valuation, $2,295,317; population, 5,100; voters, 2,222.

The county seat of Sierra county is Downieville, which has about 1,500 inhabitants.

Siskiyou County.

This county contains 5,300,000 acres, of which 250,000 is suited to agriculture. About 1,-

000,000 acres are covered by valuable forests, and about half as much more by several large lakes, of which Goose, Rhett and Wright are the principal. The principal agricultural lands in the county are located in Scott, Shasta and Surprise valleys. Grain, fruit and vegetables are grown in large quantities, wheat averaging twenty-five bushels per acre, and some fields turning out as high as forty-five. The county abounds in game of all kinds. There is much good land open to pre-emption, and many improved farms fr sale at a low price.

Land under cultivation, 30,127 acres; wheat, 174,992 bushels; barley, 43,400 bushels; oats, 72,500 bushels; rye, 450 bushels; corn, 2,941 bushels; potatoes, 274 tons; hay, 10,050 tons; butter, 62,270 pounds; cheese, 17.926 pounds; grapevines, 75,250; wine, 400 gollons; neat cattle, 23,909; sheep, 20,550; hogs, 2,170; saw mills, 18; lumber, 3,500,000 feet; shingles, 100,000. Total valuation, $2,986,332; population, 8,000; voters, 2,767.

County seat Yreka, four hundred and five miles from San Francisco. Route by railroad to Sacramento and Oroville, thence by stage; fare, $25.

Solano County.

This county is about thirty miles in length and twenty-eight in breadth. It is one of th most wealthy, populous and largely productive agricultural counties in California. Nearly the inhabitants are employed in farming. There are large tracts of tule lands which may be claimed at a small expense, but with the exception of these there are but few lands in the county which offer to the agriculturist an opportunity to obtain a farm cheaply.

Land under cultivation, 149,331 acres. Products: Wheat, 2,072,118 bushels; barley, 276,461 bushels; oats, 15,000 bushels; rye, 581 bushels; corn, 3,750 bushels; butter, 69,620 pounds; hay, 25,000 tons; wool, 24,620 pounds; grapevines, 690,629; wine, 125,300 gallons; brandy, 5,000 gallons; neat cattle, 8,265; sheep, 24,731; hogs, 6,500; grist mills, 13; flour, 70,750 barrels. Total valuation, $10,407,904; population, 19,000; voters, 5,000.

Sonoma County.

The climate of this county is extremely even and agreeable, and the soil is very fertile. In the valley of the Russian river good crops of Indian corn may be grown without irrigation, this being one of the few valleys in this State where this cereal can be raised with facility. Bodega, in this valley, is famous for its yield of potatoes. Sonoma county is famous for its vineyards, and has more vines planted than any other. Much of the wine produced is made into champagne. Farms can be obtained in some portions of this county at moderate prices, but land generally, especially in the wine-growing districts, is high.

Land under cultivation, 68,265 acres; wheat, 526,450 bushels; barley, 144,795 bushels; oats, 141,605 bushels; rye, 6,540 bushels; corn, 108,209 bushels; potatoes, 13,419 tons; sweet do, 14 tons; hay, 19,666 tons; butter, 280,101 pounds; wool, 62,305 pounds; grapevines, 3,603,365; wine, 365,510 gallons; brandy, 2,220 gallons; neat cattle, 30,898; sheep, 81,060; saw mills, 14; lumber, 49,874,350 feet; shingles, 28,015. Total valuation, $16,800,825; population, 22,500.

The county seat of Sonoma is Santa Rosa, which contains a population of 2,000 inhabitants, is reached by steamboat and the S. F. & N. P. R. R; fare $2.50.

Stanislaus County.

Stanislaus county is forty-eight miles in length, and about twenty-six in breadth, containing 798,720 acres, of which a large proportion is farming land. A large belt of tule land, easily reclaimable, stretches along the San Joaquin river. A portion of this county is embraced in the great San Joaquin valley, which is unexcelled in fertility by any portion of the State. All the products of California grow freely in Stanislaus county. Good land may be obtained at from $2.50 to $10 per acre.

Land under cultivation, 450,000 acres. Products: Wheat, 3,000,000 bushels; barley, 900,000 bushels; corn, 7,500 bushels; hay, 1,501 tons; butter, 7,500 pounds; wool, 676,400 pounds; grapevines, 260,000; wine, 50,500 gallons; brandy, 2,500 gallons; neat cattle, 9,662; sheep, 218,000; hogs, 3,400; flour, 14,000 barrels. Total valuation, $7,426,766; population, 8,000; voters, 2,174.

The principal town in this county is Modesto, on the Tuolumne river; it is reached by rail *via* the C. P. R. R. to Lathrop, thence south on the line to Bakersfield; fare, $4.50.

Sutter County.

This county is only about forty miles long by fifteen wide, and is, for its size, one of the most productive counties in the State. It is thoroughly cultivated, and all the products of California are raised in abundance. A person wishing to buy a farm in this county must have a long purse.

Land under cultivation, 162,652 acres. Products: Wheat, 1,209,260 bushels; barley, 501,352 bushels; oats, 2,333 bushels; corn, 13,342 bushels; potatoes, 396 tons; sweet do, 967 tons; hops, 8,000 pounds; hay, 24,000 tons; butter, 63,184 pounds; wool, 92,644 pounds; grapevines, 607,273; wine, 75,325 gallons; neat cattle, 10,945; sheep, 23,161; hogs, 3,045. Total valuation, $4,654,208; population, 7,127; voters, 1,500.

The county seat of Sutter county is Yuba City, distant one hundred and sixty-seven miles from San Francisco. It is reached by steamer *via* Sacramento.

Tehama County.

The average length of this county east and west is about seventy-eight miles, and its average breadth thirty-eight, giving a superficial area of nearly 3,000 square miles. Much of it is well timbered, and it is well watered by creeks flowing from the mountains. Tehama is a farming and stock raising county, and contains some of the best grain-growing lands in the State. Indian corn flourishes. There is much good land in this county which can be purchased at a moderate price.

Land under cultivation, 50,000 acres. Products: Wheat, 1,000,000 bushels; barley, 350,000 bushels; oats, 1,000 bushels; corn, 3,000 bushels; potatoes, 400 tons; hay 10,000 tons; butter, 20,000 pounds; cheese, 3,000 pounds; wool, 2,000,000 pounds; grapevines, 650,000; wine, 50,000 gallons; brandy, 200 gallons; neat cattle, 12,386; sheep, 143,632; saw mills, 9; lumber, 10,000,000 feet; shingles, 2,000,000. Total valuation, $3,878,625; population, 5,000; voters, 1,485.

The county seat of Tehama county is Red Bluff, which has a population of 2,500, and is distant 255 miles from San Francisco. It is reached by rail to Sacramento, and thence by steamer or by rail to Oroville, and thence by stage *via* Chico; fare, $20.

Trinity County.

This county comprises twenty-four hundred square miles, only ten or fifteen thousand acres being fit for farming land. The chief industrial pursuit is gold mining in placer diggings.

Land under cultivation, 9,563 acres; wheat, 14,300 bushels; barley, 670 bushels; corn, 315 bushels; hay, 2,400 tons; butter, 20,000 pounds; grapevines, 21,560; wine, 575 gallons; near cattle, 3,836; sheep, 14,286; saw mills, 10; lumber, 1,400,000 feet. Total valuation, $1,003,669; population, 3,400; voters, 855.

Tulare County.

Tulare county extends 130 miles in a northwesterly and southeasterly direction, and has an average width of 100 miles, giving it an area of 8,303,000 acres. Here are lands for all; a fertile soil, a delightful climate, and everything the heart of man can desire. Timber and water are abundant, and the woods provide for thousands of swine. Every description of grain, fruit and vegetables can be raised in profusion. Thousands of acres of swamp land await reclamation to become equal in fertility to the delta of the Nile. Cattle thrive without housing or fodder, and sheep are raised in large numbers. To Tulare county the immigrant in search of land can direct his steps with the surety of meeting with what he wants. Much of the land is open for pre-emption, and improved farms can be bought at very reasonable prices.

Land under cultivation, 43,782 acres. Products: Wheat, 206,856 bushels; barley, 252,183 bushels; oats, 22,488 bushels; rye, 3,150 bushels; corn, 14,000 bushels; potatoes, 208 tons; sweet potatoes, 84 tons; butter, 12,000 pounds; wool, 1,210,000 pounds; grapevines, 285,480; wine, 2,000 gallons; neat cattle, 33,816; sheep, 356,823; hogs, 11,260; saw mills, 5; lumber, 6,300,000 feet; shingles, 500,000. Total valuation, $4,296,231; population, 9,500; voters, 1,800.

The county seat of Tulare county is Visalia, which has a population of 1,500. It is 228 miles from San Francisco, and is reached by the Visalia division of the Central Pacific R. R.

Tuolumne County.

This county has an average length of sixty, with a width of thirty-five miles. It lies between Calaveras and Alpine on the north, and Mariposa on the south; and between Mono on the east, and Stanislaus and Calaveras on the west. It is essentially a mining county, though there are many good farms, orchards and vineyards. There are good roads, and the products of the farms find a ready market in the mining towns and camps east of the mountains.

Land under cultivation, 35,000 acres; wheat, 70,000 bushels; barley, 9,000 bushels; oats, 1,400 bushels; rye, 1,300 bushels; corn, 2,000 bushels; potatoes, 4,800 tons; hay, 20,000 tons; butter, 100,000 pounds; cheese, 80,000 pounds; wool, 11,000 pounds; grapevines, 55,000; wine, 13,700 gallons; neat cattle, 10,156; sheep, 60,726; hogs, 12,899. Total valuation, $7,309,179; population, 12,000; voters, 2,254.

Ventura County

Is one of the coast counties, and is similar to San Luis Obispo in general characterists. Returns from the Assestor for 1873-4, are as follows: Land under cultivation, 18,000 acres. Products: Wheat, 19,381 bushels; barley, 29,800 bushels; corn, 24,000 bushels; butter, 800 pounds; cheese, 700 pounds; wool, 7,500 pounds; grapevines, 135,000; wine, 7,000 gallons; neat cattle, 2,286; sheep, 148,748. Total valuation, $2,911,065; population, 3,600; voters, 783.

The county seat is San Buenaventura, situated on the sea coast, about twenty miles below Santa Barbara. Steamships of Goodall, Nelson & Perkins' line stop regularly at San Buenaventura.

Yolo County.

Yolo is exclusively an agricultural county; farming, dairying, stock-raising and fruit-growing forming the sole occupation of the inhabitants. It is about sixty miles in length and twelve in breadth. Every acre of it is settled on and held at a high price.

Land under cultivation, 160,450 acres; wheat, 2,080,000 bushels; barley, 282,875 bushels; oats, 3,000 bushels; corn, 1,800 bushels; potatoes, 2,400 tons; sweet do., 1,500 tons; hay, 12,000 tons; peanuts, 30,000 bushels; butter, 120,000 pounds; wool, 160,000 pounds; grapevines, 550,000; wine, 13,700 gallons; neat cattle, 10,156; sheep, 60,726; hogs, 12,899. Total valuation, $7,309,179; population, 12,000; voters, 3,254.

The county seat of Yolo is Woodland, one hundred and seven miles from San Francisco, whence it is reached by steamer to Vallejo, railroad to Sacramento, and thence by stage. The fare is $6.

Yuba County.

Yuba county measured northeast and southwest is fifty-seven, and its average width about eighteen miles. Part of it is still well timbered. Wheat growing is the chief industry of the county, though immense quantities of fine fruit are produced. Land in this county is generally held at a high price.

Land under cultivation, 50,640 acres; wheat, 260,055 bushels; barley, 182,464 bushels; oats, 1,013 bushels; corn, 32,230 bushels; potatoes, 360 tons; sweet do., 78 tons; hay, 12,560 tons; butter, 30,000 pounds; wool, 78,000 pounds; grapevines, 470,000; wine, 30,000 gallons; brandy, 4,800 gallons; neat cattle, 9,711; sheep, 7,269; hogs, 3,446; saw mills, 5; lumber, 3,000,000 feet. Total valuation, $5,326,180; population, 11,000; voters, 3,100.

Marysville is the county seat of Yuba county. It is a city of six thousand inhabitants, distant one hundred and thirty-nine miles from San Francisco. It is reached by the steamer to Vallejo, and thence by railroad *via* Sacramento; fare, $8.

Statistics of the State at Large.

In the foregoing list of productions of each county in the State, we have given *all* the products, but, except grapevines, have not generally mentioned fruit. There are in the State of California the following number of the different variety of trees, vines, etc. Total number of grapevines, 30,196,429; apple trees, 1,579,388; peach trees, 958,875; pear trees, 332,199; cherry trees, 180,958; nectarine, 45,894; quince trees, 37,860; apricot trees, 153,474; fig trees, 62,300; lime trees, 13,606; orange trees, 90,657; olive trees, 11,794; prune trees, 22,350; plum trees, 289,975; mulberry trees, 290,720; almond trees, 160,070; walnut trees, 105,359. Total number gallons of wine made in the State in 1873-4, 3,857,027 gallons; brandy, 175,944.

There is hardly any county in the State but what nearly all kinds of fruit enumerated above may not be grown successfully. Five counties in the State produced last year, 1,071,030 pounds of tobacco. Cotton was grown in three counties, and 593 acres produced 204,745 pounds. Total amount of lumber brought to market, 442,018,387 feet; shingles, 99,445,520. Total valuation of the State as given by the assessors foots up to $611,256,939. Total population, 726,967; voters, 173,689. Coal in these counties, 153,190 tons; woolen mills in six counties, 8; pounds of wool used, 5,501,966; quartz mills in twenty-three counties, 284; tons of ore crushed, 490,962; flax in six counties, 2,664 acres; produced 1,405,080 pounds. The county having the largest number of fruit trees is Sonoma, it having over 170,000 apple trees alone. The county having the smallest number is Mono, which has but 50.

[From Official Copy.]

Instructions of the Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,
General Land Office,
Washington, D. C., June 17, 1875.

The following is communicated in reference to the manner of acquiring title to the public lands under different laws of Congress:

There are two classes of public lands, the one class at $1.25 per acre, which is designated as *minimum*, and the other at $2.50 per acre, or *double* minimum.

Title may be acquired by purchase at public sale, or by ordinary "private entry," and in virtue of the pre-emption, homestead, and timber-culture laws.

By Purchase at Public Sale.

1. This may be done where lands are "offered" at public auction to the highest bidder, either pursuant to proclamation by the President or public notice given, in accordance with directions from the General Land Office.

By "Private Entry" or Location.

2. The lands liable to disposal in this manner are those which were offered at public sale, but were not then sold, and which have not since been reserved or otherwise withdrawn from market. In this class of offered and unreserved public lands, the following steps may be taken to acquire title:

Cash Purchases.

3. The applicant will present a written application to the register for the district in which the land desired is situated, describing the tract he wishes to purchase, giving its area. Thereupon the register, if the tract is vacant, will so certify to the receiver, stating the price, and the applicant must then pay the amount of the purchase money.

The receiver will then issue his receipt for the money paid, in duplicate, giving to the purchaser a duplicate receipt, and at the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt, such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington or by the register at the district land office.

Locations With Warrants.

4. Applications must be made as in cash cases, but must be accompanied by a warrant duly assigned as the consideration for the land; yet where the tract is $2.50 per acre, the party, in addition to the surrendered warrant, must pay in *cash* $1.25 per acre, as the warrant is in satisfaction of only so many acres, at $1.25 per acre, or furnish a warrant of such denomination as will, at the legal value of $1.25 per acre, cover the rated price of the land. For example: a tract of 40 acres of land, held at $2.50 per acre, can be paid for with a warrant calling for 40 acres and the payment of $50 in cash, or by surrendering an 80 acre warrant for the same—the 40 acres to be in full satisfaction for the said location. Or a tract of 80 acres, rated at $2.50 per acre, can be paid for by the surrender of two 80 acre warrants. If there is a small excess in the area of the tract over the quantity called for on the face of the warrant in any case, such excess may be paid for in money.

A duplicate certificate of location will then be furnished the party, to be held until the patent is delivered, as in cases of cash sales.

The following fees are chargeable by the land officers, and the several amounts must be *paid at the time of location:*

For a 40-acre warrant, 50 cents each to the register and receiver—total, $1.00.
For a 60-acre warrant, 75 cents each to the register and receiver—total, $1.50.
For an 80-acre warrant, $1.00 each to the register and receiver—total, $2.00.
For a 120-acre warrant, $1.50 each to the register and receiver—total, $3.00.
For a 160-acre warrant, $2.00 each to the register and receiver—total, $4.00.

Agricultural College Scrip.

5. This scrip may be used—

First. In the location of lands at "*private entry,*" but when so used is only applicable to lands not mineral which may be subject to private entry at $1.25 per acre, yet is restricted to a technical "*quarter section*"—that is, land embraced by the quarter section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter section," where such part is taken as in full for a quarter; but it cannot be applied to different subdivision to make an area equivalent to a quarter section. The manner of proceeding to acquire title with this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three* sections in *each township* of land.

Second. In payment of pre-emption claims, in the same manner and under the same rules and regulations as govern the application to pre-emptions of military land warrants; this, too, without regard to the limitation as to the quantity located in a township or in any one State.

Third. In payment for homesteads commuted under section 2,301 of the Revised Statutes of the United States, copy attached.

Pre-emptions Admissible to the Extent of one Quarter Section, or One Hundred and Sixty Acres.

6. These are admitted under sections 2,257 to 2,288 of the Revised Statutes of the United States, copies of which sections are hereto attached, marked No. 1, upon "offered" and "unoffered" lands, and upon any of the unsurveyed lands belonging to the United States, to which the Indian title is extinguished, although in the case of unsurveyed lands no definite proceedings can be had as to the completion of the title until after the surveys shall have been extended and officially returned to the district land office.

The pre-emption privilege is restricted to heads of families, widows, or single men over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws. This does not include Indians, except such as have ceased their tribal relations, and been declared citizens by treaties or acts of Congress.

7. The right of pre-emption, formerly extended by act of Congress of March 3d, 1853, for one quarter section, or 160 acres, at the price of $2.50 per acre, to the alternate United States or reserved sections along the line of railroads, is continued by the Revised Statutes, sections 2,257, 2,259, and 2,279.

8. Section 2,281 thereof protects the rights of settlers on sections along the line of railroads, where settlement existed prior to withdrawal, and in such cases allows the land to be taken by the pre emptors at $1 25 per acre, but requires that they shall file the proper notices of their claims, and make proof and payment as in other cases.

9. Where the tract is "*offered*" land, the party must file with the district land office his declaratory statement as to the fact of his settlement within thirty days from the date of said settlement, and within one year from date of settlement must appear before the register and receiver and make proof of his actual residence on, and cultivation of the tract, and secure the same by paying *cash*, or locating thereon military bounty land warrants, or agricultural-college scrip, according to law.

10. Where the tract has been surveyed and *not* offered at public sale, the claimant must file his declaratory statement within three months from date of settlement, and make proof and payment within thirty months after the expiration of the three months allowed for filing his declaratory notice; or in other words, within thirty-three months from date of settlement.

11. Where settlements are made upon *unsurveyed* lands, settlers are required, within three months after the date of the receipt at the district land office of the approved plat of the township embracing their claims, to file their declaratory statement with the register of the proper land office, and thereafter to make proof and payment for the tract within thirty months from the expiration of said three months.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon, the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it. (Revised Statutes, sec. 2,274.)

12. Should the settler in either of the aforesaid cases die before establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land; the entry

to be made in the name of "the heirs" of the deceased settler; and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period to which the pre-emptor would be entitled if living.

Section 2,261 of the Revised Statutes prohibits the second filing of a declaratory statement by any pre-emptor qualified at the date of his first filing where said filing has been in all respects legal. Where the first filing, however, is illegal from any cause, he has the right to make a second and legal filing.

Laws Extending the Homestead Privileges.

13. The laws extending the homestead privilege, embraced in sections 2,289 to 2,317 of the Revised Statutes—copies attached, marked No. 2—give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands. This is conceded to the extent of one quarter section, or 160 acres, or a half quarter section, or 80 acres, the former in cases where the land desired is embraced in the class of lower priced lands held by law at $1.25 per acre, when disposed of to cash purchasers; the latter where it is of the class of higher priced lands held at $2.50 per acre, when so disposed of.

14. To obtain homesteads, the party must, in connection with his application, make an affidavit before the register or receiver that he is over the age of twenty-one, or the head of a family; that he is a citizen of the United States, or has declared his intention to become such; and that the entry is made for his exclusive use and benefit, and for actual settlement and cultivation; and must pay the legal fee and that part of the commissions which is payable when the entry is made, as given in tables below.

15. Where the applicant has made actual settlement on the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land office, the affidavit may be made before the clerk of the court for the county within which the land is situated, under section 2,294 of the Revised Statutes.

16. On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee, and that part of the commissions paid, a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office, and reported to the General Land Office.

17. An inceptive right is vested in the settler by such proceedings, and upon faithful observance of the law in regard to settlement and cultivation for the continuous term of five years, and at the expiration of that time, or within two years thereafter, upon proper proof to the satisfaction of the land officers, and payment to the receiver, of that part of the commissions remaining to be paid, as given in tables below, the receiver issuing his receipt therefor, the register will issue his certificate, and make proper returns to this Office as the basis of a patent or complete title for the homestead.

NOTE.—The law is specific in requiring final proof to be made within two years after the expiration of the five years.

In making final proof, it is required that the homestead party shall appear in person at the district land office, and there make the affidavit required of him by law in support of his claim. Where, from physical disability, distance, or other good cause, the witnesses of said party cannot attend in person at the district office, their testimony in support of the claim may be taken where they reside, before an officer authorized by law to administer oaths.

Their testimony must state satisfactorily the reason of their inability to attend at the district office; and the credibility and responsibility of the witnesses must be certified by the officiating magistrate, whose official character must be authenticated under seal.

The corroborating testimony thus prepared must be deposited with the register and receiver, and filed with the affidavit of the homestead party, and the decision of the register and receiver indorsed thereon, as a preliminary to the transmission of the same to the General Land Office.

18. Where a homestead settler dies before the consummation of his claim, the widow, or in case of her death the heirs, may continue the settlement and cultivation, and obtain title upon requisite proof at the proper time. If the widow proves up, the title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them.

Where both parents die leaving infant heirs, the homestead may be sold for cash for the benefit of such heirs, and the purchaser will receive title from the United States.

19. The sale of a homestead claim by the settler to another party before completion of title, is not recognized by this Office, and not only vests no title or equities in the purchaser, but would be *prima-facia* evidence of abandonment, and might give cause for cancellation of the claim.

A party may relinquish his claim, but on his doing so the land reverts to the Government. The party so desiring should surrender the duplicate receipt issued for the entry, with his written relinquishment of the same endorsed thereon, to the register and receiver of the proper district land office. If the duplicate receipt has been lost, he should submit to those officers a written relinquishment of the entry, in which he should state the fact of the loss of the duplicate receipt, and which should be duly signed and acknowledged. The register and receiver will report the relinquishment, as any other evidence of abandonment, with their opinion hereon, for the action of this Office.

Where application is made to contest the validity of a homestead entry on the ground of abandonment, the party must file his affidavit with the district land officers, setting forth the allegations on which his application is founded, describing the tract, and giving the name of the settler. Upon this the officers will set apart a day for a hearing, giving all the parties in interest due notice of the time and place of trial.

After the trial, the land officers will transmit the testimony, with their joint report, for the action of this Office.

The expenses incident to such contest must be defrayed by the contestant, and no entry of the land can be made until the district officers have received notice from this Office of the cancellation of the entry covering the same; nor does an informant obtain any privileges thereby. Such person must, if he desires the land, by proper diligence ascertain when notice of cancellation is received by the register and receiver, and then make formal written application for the tract; the land, after reception by said officers of notice of cancellation, being always open to the the *first legal applicant*, unless withdrawn from entry by competent authority

20. As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; but where, a party having made one entry, it is cancelled as invalid, for some other reason, he is not thereby debarred from entering again.

Where an individual has made settlement on a tract and filed his pre-emption declaration therefor, he may change his filing into a homestead, if he continues in good faith to comply with the pre-emption laws until the change is effected. If, however, the land has become double minimum in price, he cannot, unless entitled as a soldier or sailor, under section 2,304 of the Revised Statutes, commute for more than a "half quarter section," or 80 acres.

21. If the homestead settler does not wish to remain five years on his tract, the law permits him to pay for it with cash or warrants, or agricultural-college scrip, upon making proof of settlement and cultivation for a period of not less than six months from the date of entry to the time of payment.

This proof of actual settlement and cultivation must be the affidavit of the party, made before the district officers, corroborated by the testimony of two credible witnesses.

22. There is another class of homesteads designated as "adjoining farm homesteads." In these cases the law allows an applicant *owning* and *residing* on an *original* farm to enter other land lying contiguous thereto, which shall not, with such farm, exceed in the aggregate 160 acres. Thus, for example, a party owning or occupying 80 acres, may enter 80 additional of $1.25, or 40 acres of $2.50 land. Or, suppose the applicant to own 40 acres, then he may enter 120 acres at $1.25, or 40 at $1.25 with 40 at $2.50, if both classes of land should be found contiguous to his original farm.

In applying for an entry of this class, the party must make affidavit describing the tract which he owns and upon which he resides as his original farm. In making final proof, it is not required that he should prove actual residence on the separate tract entered; but if he does not, it must appear from the proof adduced that he has continued for the period required by law to reside upon and cultivate the original farm tract, and has *bona fide* made use of the entered tract as a part of the homestead, inclosing, cultivating, or otherwise improving the same.

23. *Provisions for the benefit of soldiers and sailors of the late war, their widows and minor orphan children.*—Sections 2,304, 2,305, 2,306, 2,307, 2,308, and 2,309 of the Revised Statues, for the benefit of soldiers and sailors, their widows and minor orphan children, provide—

1st, In section 2,304, that every soldier and officer of the Army, and every seaman, marine, and officer of the Navy, who served not less than ninety days in the Army or Navy of the United States "during the recent rebellion," and who was honorably discharged, and has remained loyal to the Government, may enter, under the provision of the homestead law, 160 acres of the public land, to be taken, if desired, from the class of double minimum lands.

2d. In section 2,305, that the time of his service, or the whole term of his enlistment, if the party was discharged on account of wounds or disability incurred in the line of duty, shall be deducted from the period of five years, during which, as per section 2,291, the claimant must, to perfect title, reside upon and cultivate the entered tract, but with the proviso that the party shall in every case reside upon, improve, and cultivate his homestead for a period of at least one year after he shall have commenced his improvements.

3d. That any person entitled to the benefits of section 2,304, who had prior to the 22d of June, 1874, made a homestead entry of less than 160 acres, may enter an additional quantity of land sufficient to make with the previous entry 160 aeres.

4th. That the widow, if unmarried, or in case of her death or marriage, then the minor orphan children, of a person who would be entitled to the benefits of section 2,304, may enter lands under its provisions, with the additional privilege accorded, that if the person died during his term of enlistment, the widow or minor children shall have the benefit of the whole term of enlistment.

5th. That any person entitled to the benefit of section 2,304 may file his claim for a tract of land through an agent, and shall have six months thereafter within which to make his entry and commence his settlement and improvement upon the land.

24. The following is the course of proceedings for parties to avail themselves of the benefits of these sections of the Revised Statutes in making homestead entries:

1st. On the party producing the proper proof of his right to do so, immediate entry of the tract desired may be made; but if the party so elect, he may file a declaration to the effect that he claims a specified tract of land as his homestead, and that he takes it for actual settlement and cultivation. The register and receiver will number the declarations so filed in a separate series, according to the order of filing, enter them on their records, and with their monthly returns forward an abstract, to embrace all declarations of this class filed with them during the month. Thereafter, at any time within six months from the date of filing, the party may come forward, make his entry of the land, and commence his settlement and improvement. Should the party present his declaration through an agent, as authorized by section 2,309, said agent must produce a duly executed power of attorney from the principal desiring to make the entry, who will be bound by the selection his agent may make the same as though made by himself. Failure of the party to make entry of the tract filed upon by himself, or agent, within six months from the date of filing, will be regarded as an abandonment, and a forfeiture of his right to enter; but in any case where the party acted in good faith, and the failure resulted from sickness, misfortune, or any insurmountable cause, he may submit, through the register and receiver of the proper district land office, his affidavit setting forth that such was the case, with the reasons of his failure, and that he has not attempted by sale, or barter, or in any way whatever, to alienate for gain or profit his claim or right under the filing, or to the land covered thereby. If the showing so made should be found satisfactory, the register and receiver will be instructed to permit him to enter as a homestead the same tract for which his declaration was filed, if no valid adverse right to that tract shall have intervened, or any other tract subject to entry, in case a valid adverse right shall have intervened to the tract filed upon.

2d. The claims of widows and minor orphan children may be initiated by declaration, as above. Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship, which must be transmitted to this office by the registers and receivers with their abstracts of declarations. The law does not require, as a condition to enjoying its benefits, that the party should first file a declaratory statement, and, as before stated, immediate entry may be made.

3d. Applications for additional entries must be for a quantity which, with the original entry, will not exceed one hundred and sixty acres.

Where the party's first entry has been consummated, the register and receiver will require him to make application and affidavit, in the forms prescribed, (Nos. 16 and 17,) and to pay the same fee and commissions as in cases of original entry; the receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers, and the final papers therefor, in such cases, shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the receiver will issue his receipt; the register will thereupon issue his final certificate, for the additional tract, (form No. 18;) the receipt and certificate to bear their proper number in the final homestead series, likewise a reference to the original entry and to the final certificate thereon. by their number, and also by their district, where the party's first entry shall have been made in a different district.

In case the party has not made proof on his original homestead entry when he applies for additional land, he will be allowed to make the additional entry on proper application and affidavit as above stated, and paying the usual fee and commissions, for which the receiver will issue his receipt; the papers to receive their proper numbers in the homestead series, with a reference thereon to the original entry. Thereafter, when the party shall make final proof on the original entry, he will be required to pay the final commissions on both entries, when a final receipt will be issued for the money, and thereupon a final certificate issued to call both for the tract in the original entry and the additional tract. On these papers the register and receiver will make a reference to the original and the additional entry, and on them one patent will issue for both; yet where it happens that the original entry and the additional entry are made in different land districts, this rule must be departed from, so far as regards the issuing of one final certificate and receipt for both.

25. The following proof will be required of parties applying for the benefits of these sections, in addition to the prescribed affidavit of the applicant.

1st. Certified copy of certificate of discharge, showing when the party enlisted and when he was discharged; or, if this cannot be procured, then the affidavits of two respectable, disinterested witnesses corroborative of the allegations contained in the prescribed affidavit (form No. 14) on these points.

2d. In case of widows, the prescribed evidence of military service of the husband, as above, with affidavit of widowhood.

3d. In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or marriage of the mother. Evidence of death may be the testimony of two witnesses or certificate of a physician duly attested. Evidence of marriage may be certified by copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

26. The register and receiver will be allowed to charge one dollar each for receiving and filing the initiatory declaration of the parties in cases where such declarations are filed. This fee the

receiver will account for in the usual manner, indicating the same in his accounts as fees for "homestead declarations," which will be charged against the maximum of $3,000 now allowed by law. In the States and Territories for which 50 per centum additional is allowed by the twelfth subdivision of section 2,238 of the Revised Statutes, the additional allowance will apply to the fee herein named, viz: California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana.

27. *Provisions for the benefit of Indians.*—The 15th and 16th sections of the act of March 3, 1875, (copy attached, No. 4,) extends the benefits of the homestead act of May 20, 1862, and the acts amendatory thereof, (now embodied in sections 2,290, 2,291, 2,292, and 2,295 to 2,302, inclusive, of the Revised Statutes,) to any Indian, born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, with the exception that the provisions of the eighth section of said act of 1862, (section 2,301 of the Revised Statutes,) shall not be held to apply to entries made thereunder, and with the proviso that the title to lands acquired by any Indian by virtue thereof shall not be subject to alienation or incumbrance, either by voluntary conveyance, or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor.

An Indian desiring to enter public land under this act must make application to the register and receiver of the proper district land office; also an affidavit setting forth the fact of his Indian character; that he was born in the United States; that he is the head of a family, or has arrived at the age of twenty-one years; that he has abandoned his tribal relations and adopted the habits and pursuits of civilized life, (form No. 19,) and this must be corroborated by the affidavits of two or more disinterested witnesses, (form No. 20.)

If no objection appear, the register and receiver will then permit him to enter the tract desired according to existing regulations, so far as applicable, under the homestead law, the register writing across the face of the application (form No. 10) the words "Indian homestead—act of March 3, 1875;" they will note the entry on their records and make returns thereof to this Office, with which they will send the affidavits submitted. It will be observed that the provisions of the eighth section of the act of May 20, 1862, (section 2,301 of the Revised Statutes,) which admit of the commuting of homesteads to cash entries, do not apply to this class of homesteads.

28. All lands obtained under the homestead laws are exempt from liability for debts contracted prior to the issuing of a patent therefor.

29. For homestead entries on lands in Michigan, Wisconsin, Iowa, Missouri, Minnesota, Kansas, Nebraska, Dakota, Alabama, Mississippi, Louisiana, Arkansas, and Florida, fees are to be paid according to the following table:

Acres.	Price per acre.	Commissions.		Fees.	Total fees and commissions.
		Payable when entry is made.	Payable when certificate issues.	Payable when entry is made.	
160	$1 25	$4 00	$4 00	$10 00	$18 00
80	1 25	2 00	2 00	5 00	9 00
40	1 25	1 00	1 00	5 00	7 00
80	2 50	4 00	4 00	10 00	18 00
40	2 50	2 00	2 00	5 00	9 00

Note.—Where entries are made on $2.50 lands by officers, soldiers and sailors, under section 2304 of the Revised Statutes, double the amount of the above commissions must of course be paid; that is, for 160 acres of $2.50, $8 at the date of entry, and $8 upon proving up.

By section 2,303 of the Revised Statutes the public lands in five of the above States, viz: Alabama, Mississippi, Louisiana, Arkansas, and Florida, are not subject to disposal in any other manner than according to the provisions of the homestead laws. In addition to the States and Territories named, the above rates will apply to Ohio, Indiana, and Illinois, if any vacant tracts can be found liable to entry in these three States, where but very few isolated tracts of public land remain undisposed of.

30. In the Pacific and other Political Divisions, viz: on lands in California, Nevada, Oregon, Colorado, New Mexico, and Washington, and in Arizona, Idaho, Utah, Wyoming, and Montana, the commissions and fees are to be paid according to the following table:

Acres.	Price per acre.	Commissions.		Fees.	Total fees and commissions.
		Payable when entry is made.	Payable when certificate issues.	Payable when entry is made.	
160	$1 25	$6 00	$6 00	$10 00	$22 00
80	1 25	3 00	3 00	5 00	11 00
40	1 25	1 50	1 50	5 00	8 00
80	2 50	6 00	6 00	10 00	22 00
40	2 50	3 00	3 00	5 00	11 00

The note to the table under the 29th head applies also to this table of rates.

Laws to Promote Timber Culture.

31. The timber culture act of March 13, 1874, (copy attached, No. 3,) amendatory of the act of March 3, 1873, (sections 2,464 to 2,468) of the Revised Statutes, is to the following effect:

1. The privilege of entry under this act is confined to persons who are heads of families, or over twenty-one years of age, and who are citizens of the United States, or have declared their intention to become such.

2. The affidavit required for initiating an entry under this act (form No. 22) may be made before the register or receiver of the district office for the land district embracing the desired tract, or before some officer authorized to administer oaths in that district, who is required by law to use an official seal.

3. Not more than one quarter of any one section can be entered under this act.

4. The privilege of making more than one entry thereunder is confined to such parties as shall enter, in each and every instance, a fractional subdivision of less than 40 acres, and the aggregate area of such entries shall not exceed 160 acres.

5. The ratio of area required to be broken, planted, etc., is, in all cases initiated under the first section of this act, one-fourth of the land embraced in the entry.

6. One-fourth part of the area required to be devoted to timber must be broken within one year from date of entry; one-fourth part more within two years from date of entry; and the remaining one-half within three years from date of entry.

7. One-fourth part of the area required to be devoted to timber must be planted within two years from date of entry; one-fourth part more within three years from date of entry; and the remaining one-half within four years from date of entry.

8. The trees are required to be not more than twelve feet apart each way, and the same are required to be protected, cultivated, and kept in a healthy growing condition for eight years next succeeding the date of entry.

9. If, at the expiration of the said eight years, or at any time within the five years thereafter, the person making the entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses the fact of such planting, cultivation, etc., of the said timber for not less than the said period of eight years, he, she, or they shall receive a patent for the land embraced in said entry;

10. In case of the death of a person who, having entered a quarter section, has complied with the provisions of this act for the period of three years—that is to say, who has broken ten acres the first year, ten acres the second year, and twenty acres the third year; and who has planted ten acres with timber the second year, and ten acres the third year—then, and in that case, his or her heirs or legal representatives shall be permitted, at their option, to continue to comply with the provisions of this act during the unexpired portion of the eight years, and thereupon receive a patent for said quarter section; or, on making proper proof of the compliance of the deceased settler with the requirements of the act for the said period of three years, they shall receive, without delay, a patent for forty acres of said quarter section, upon the condition that they relinquish to the United States all claim to the remainder of the land embraced in such entry;

11. If at any time after not less than one year from the date of entry under the first section of this act, and prior to the issue of a patent therefor, the claimant shall fail to do the breaking and planting required by this act, or any part thereof, or shall fail to cultivate, protect, and keep in good condition such timber, then, and in that event, such land shall become liable to a contest, in the manner provided in homestead cases; and upon due proof of such failure, the entry shall be canceled and the land become again subject to entry under the homestead laws, or by some other person under the provisions of this act;

12. Each and every homestead settler, at any time after the end of the third year of his or her residence, who, in addition to the settlement and improvements required by the homestead laws, shall have had under cultivation for two years one acre of timber (the trees thereon being not more than twelve feet apart each way, and in a good thrifty condition) for each and every sixteen acres of said homestead, shall, upon due proof of such fact by two credible witnesses, receive his or her patent for said homestead;

13. No land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of final certificate therefor;

14. The fees for all entries under this act shall be ten dollars, and the commission of registers and receivers on all entries (irrespective of area) shall be four dollars (two dollars to each) at the date of entry, and a like sum at the date of final proof;

15. No distinction is made, as to area or the amount of fee and commissions, between minimum and double-minimum lands; a party may enter 160 acres of either, on payment of the prescribed fee and commissions.

16. The fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes," approved March 3, 1857, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

17. Parties who may have already made entries under the timber-culture act of March 3, 1873, of which this is amendatory, shall be permitted to continue and complete the same in the manner and under the conditions prescribed by this act.

32. Pursuant to the foregoing provisions, the following regulations will be observed, viz:

First. The register and receiver will restrict entries under this act to some one "technical quarter section" in any section of public land which is wholly prairie and naturally devoid of timber, and, hence, subject to the operation of the act, which may be either the northeast quarter, southeast quarter, northwest quarter or southwest quarter, as the first legal applicant for a timber-culture entry in such section may elect. Before allowing any entry applied for, they will, by a careful examination of the plat and tract books with reference to any previous entry or entries within the limits of the same section, satisfy themselves that the desired entry is admissible under this rule.

Second. In the case of an application for a fractional subdivision containing less than forty acres, they will require the applicant to state in his affidavit that he has, or has not, as the case may be, made a previous entry of similar fractional subdivision. If he shall have made one or more such previous entries, they will require him to exhibit his duplicate receipts or patents therefor, and will note the same by number, acres, district, and description of land, upon the application presented, thus: "Previous entry No. ——, [*Description,*]——— acres, —— District."

Third. When they shall have satisfied themselves that the land applied for is properly subject to such entry, they will require the party to make affidavit, (Form No. 22), and to pay the fee and that part of the commissions payable at the date of entry, and the receiver will issue his receipt therefor, in duplicate, giving the party a duplicate receipt. They will number the entry in its order, in a separate series of numbers, unless they have already a series under the act of March 3, 1873, to which this act is amendatory, in which case they will number the entry as one of that series; they will note the entry on their records, and report it in their monthly returns, sending up all the papers therein, with an abstract of the entries allowed during the month under this act.

Fourth. The fee and commissions in this class of entries the receiver will account for in the usual manner, indicating the same as fees and commissions on timber-culture entries, which will be charged against the maximum of $3,000 now allowed by law.

Fifth. When a homestead party claims a patent for his homestead entry under the fourth section of this act, the register and receiver will require him to make affidavit, according to Form No. 23, and proof, according to Form No. 24, which must show that he has resided upon and cultivated the tract for not less than three years, in addition to the facts that the land is prairie in character, and that he has cultivated timber thereon, as required to bring the case within the provisions of said fourth section. This being done, and the proper commissions paid, the receiver will issue his receipt for the money, and the register his final certificate for the entry, (Form No. 25,) the papers to be numbered in the regular final homestead series.

Sixth. In all cases under this act, it will be required that trees shall be cultivated which shall be of the class included in the term "*timber,*" the cultivation of shrubbery and fruit-trees not being sufficient.

Presentation of Appeals.

33. Any party aggrieved by the rejection of his claim has a right to appeal from the decision of the register and receiver to the Commissioner of the General Land Office. Such appeal, how ever, with the reasons therefor, must be filed with the land officers within thirty days from the date of their decision, accompanied by the rejected papers, if any; also, with any argument the party desires to file. These papers will then be forwarded to the Commissioner by the district land officers, for review and decision. Their report should set forth the nature of the claim, whether homestead, pre-emption, timber culture, railroad, mineral, swamp, or other State selection, with the names of parties, description of land, number of filing, entry, list of selection, and date of hearing.

No appeal will be entertained unless sent up through the district land office.

The party may still further appeal from the decision of the Commissioner of the General Land Office to the Secretary of the Interior. This appeal must be taken within sixty days after service of notice on the party. It may be filed with the district land officers, and by them forwarded, or it may be filed with the Commissioner, and must recite the points of exception.

If not appealed, the decision is by law made final. (See section 2273 of the Revised Statutes.) After appeal, thirty days are usually allowed for filing arguments, and the case is then sent to the Secretary, whose decision is final and conclusive.

Registers' and Receivers' Returns.

34. Within three days from the close of each month the district land officers are required to make out and transmit to the General Land Office a statement of the business of their respective offices for the preceding month.

These report are in the form of abstracts of pre-emption declarations and of soldiers' declarations filed, abstracts of lands sold, abstracts of homesteads entered, abstracts of timber-culture entries allowed, abstracts of military bounty land warrants and of agricultural college scrip located, accompanied by the certificates of purchase, receiver's receipts, homestead and timber-culture applications and affidavits, military bounty land warrants and agricultural college scrip surrendered as satisfied, and the certificates of location thereof.

The abstracts, after being carefully examined by the register and receiver, are to be certified by them as correct and as in conformity with the papers in the entries or locations embraced therein, and with their records, which papers, abstracts, and records must agree with each other.

The receiver is required also to render promptly a *monthly account of all the moneys received,* showing the balance due the Government at the close of each month.

At the end of every *quarter* he must also transmit a *quarterly* account as receiver; upon the several accounts an adjustment is here made and submitted to the Treasury Department for final settlement.

He must also render a quarterly disbursing account of all moneys expended.

The receiver is required to deposit the moneys received by him at some depository designated by the Secretary of the Treasury when the amount on hand shall have reached the sum of *two thousand dollars*; and in no case is he authorized, without special instructions, to hold a larger amount in his hands.

35. It is the duty of the registers and receivers to be in attendance at their offices, and give proper facilities and information to persons applying for lands.

36. A list of all the district land offices in the United States is hereto annexed.

37. Laws and instructions relating to mining claims form the subject of a separate circular. Lands bearing "*gold, silver, cinnabar, lead, tin, copper, or other valuable deposits,*" are not subject to disposal under the homestead and pre-emption laws.

38. Registers and receivers of the land offices are not authorized by law to make any charge for their services in accepting or entering pre-emption or homestead claims other than such as are herein set forth.

39. By section 2,242 of the Revised Statutes it is, among other things, provided that upon satisfactory proof that either of said officers, or any other officer, has charged or received fees or other rewards not authorized by law, he shall forthwith be removed from office.

S. S. BURDETT,
Commissioner of the General Land Office.

Second Pre-emption Benefit to Californians Not in Force.

From numerous inquiries we understand that an impression prevails among some persons that the laws allow those who have had the benefit of the Pre-emption Act elsewhere, to avail themselves of a second benefit in the Pacific States. This was the case under certain conditions, but the time specified by the law in which the second pre emption could be made, has long since passed by, as the following explanation will show: The provisions of the Act of September 4th, 1841, granting pre-emption rights to settlers on the public lands, were extended to the State of California by Act of March 3d, 1853 (10 U. S. Statutes, p. 244). By the third proviso of Section 6 of the Act of March 3d, 1853, permission is given to those who have had the benefit of the Pre-emption Act elsewhere, to take a second benefit of the Act and make settlement on *unsurveyed* lands in California; but such settlements could not be made except within one year from the passage of the Act (March 3d, 1853). By the provisions of Section 1 of the Act of March 1st, 1854 (10 U. S. Statutes at Large, p. 268), the provisions of the Act of March 3d, 1854, were modified so as to extend the time for such settlements on *unsurveyed* lands to within *two* years after the passage of the Act of March 1st, 1854. These laws were made in order to encourage settlement on unsurveyed lands of California; but the time within which such settlement could be made was very properly limited, so that when the country was partially settled it should come under the usual restrictions concerning pre-emption rights. It will be seen also that the time within which those who had had the benefit of the Act elsewhere could take a second benefit here, has long passed by.

[No. 1.]

Revised Statutes of the United States.

Title XXXII—The Public Lands—Ch. 4.

PRE-EMPTIONS.

Sec. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions restrictions and stipulations provided by law.

Sec. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

Sec. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

Sec. 2260. The following classes of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding section, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public lands in the same State or Territory.

Sec. 2261. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section twenty-two hundred and fifty-nine; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

Sec. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register of the land district in which the land is situated that he never had the benefit of any right of pre-emption under section twenty-two hundred and fifty-nine; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatsoever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of *bona fide* purchasers, for a valuable consideration, shall be null and void, except as provided in section twenty-two hundred and eighty-eight. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land office of such district, and to transmit a duplicate copy to the General Land Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

SEC. 2263. Prior to any entries being made under and by virtue of the provisions of section twenty-two hundred and fifty-nine, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the date of such settlement, file with the register of the proper district a written statement, describing the land settled upon, and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

SEC. 2265. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the register of the proper land office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such pre-emption settlement.

SEC. 2267. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the lands claimed within thirty months after the date prescribed therein, respectively, for filing their declaratary notices, has expired.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

SEC. 2269. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

SEC. 2270. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land Office, on account of any alleged defect therein.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre emption.

SEC. 2273. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States, prior to the survey thereof, and it has been or shall be ascertained, after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land office, or for either of said settlers to enter into contract with his cosettlers to convey to them their portion of said land after a patent is issued to him, and, after making said contract, to file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant: *Provided,* That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

SEC. 2275. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

SEC. 2276. The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township or fractional township, containing a greater quantity of land than three-quarters or an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters, of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one half section; and for a fractional township, containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one-quarter section of land.

SEC. 2277. All warrants for military bounty lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

SEC. 2278. Agricultural college scrip, issued to any State under the act approved July 2d, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty land warrants, by the preceding section.

SEC. 2279. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre-emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

SEC. 2283. The Osage Indian trust and diminished reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres, or one quarter section to each, in compact form, in accordance with the general principles of the pre-emption laws under the direction of the Commissioner of the General Land Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township plat in the district office where such plat is not on file at the date of settlement.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

SEC. 2285. The restrictions of the pre-emption laws, contained in sections twenty-two hundred and sixty and twenty-two hundred and sixty-one, shallnot apply to any settler on the Osage Indian trust and diminished reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

SEC. 2287. Any *bona fide* settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter section of the public lands in any district land office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by law, to the satisfaction of the Commissioner of the General Land Office.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

Homesteads may be perfected
by pre-emption any time [illegible]
before end of [illegible]
Pre-emptions shall be [illegible]
in [illegible] and [illegible]
[illegible] in [illegible]
by paying the [illegible]

[No. 2.]

Title XXXII–The Public Lands–Ch. 5.

HOMESTEADS.

Sec. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which such person may have filed pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

Sec. 2290. The person applying for the benefit of the preceding section shall, upon application to the register of the land office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Sec. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

Sec. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children, and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

Sec. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representive of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

SEC. 2295. The register of the land office shall note all applications under the provisions of this chapter, on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent thereof.

SEC. 2297. If, at any time after the filing of the affidavit, as required in section twenty-two hundred and ninety, and before the expiration of the five years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

SEC. 2298. No person shall be permitted to acquire title to more than one quarter section under the provisions of this chapter.

SEC. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing pre-emption rights; and all persons who may have filed their applications for a pre-emption right prior to the twentieth day of May, eighteen hundred and sixty-two, shall be entitled to all the privileges of this chapter.

SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine, from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights.

Sec. 2302. No distinction shall be made in the construction or execution of this chapter, on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

SEC. 2303. All the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas and Florida, shall be disposed of in no other manner than according to the terms and stipulations contained in the preceding provisions of this chapter.

SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February thirteen, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved s ctions of public lands along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.

SEC. 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

SEC. 2306. Every person entitled, under the provisions of section twenty-three hunded and four, to enter a homestead who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

SEC. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section twenty-three hundred and four, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvements therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

SEC. 2308. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service

SEC. 2309. Every soldier, sailor, marine, officer, or other person coming within the provisions of section twenty-three hundred and four, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

SEC. 2310. Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians, residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

SEC. 2311. The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section.

SEC. 2312. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section twenty-three hundred and ten, having filed with the clerk of the district court of the United States, a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

SEC. 2313. The unoccupied lands in the reservation made for the Ottawa and Chippewa Indians, of Michigan, by the treaty of July thirty-one, eighteen hundred and fifty-five, shall be open to homestead entry for six months from the tenth day of June, eighteen hundred and seventy-two, by Indians only of those tribes, who have not made selections or purchases under the treaty, including such members of the tribes as have become of age since the expiration of the ten years named in the treaty; and every Indian so entitled shall be permitted to make his homestead entry, at the local land office, within such six months, of not exceeding one hundred and sixty acres, or one quarter section of minimum, or eighty acres of double minimum land, on making proper proof of his right, under such rules as may be prescribed by the Secretary of the Interior.

SEC. 2314. The collector of customs for the district in which such land is situated, is authorized, and it is made his duty, to select for such minor children as would be entitled, under the preceding section, as the heirs of any Indian.

SEC. 2315. All actual, permanent, *bona fide* settlers on any of such lands who settled prior to the first day of January, eighteen hundred and seventy-two, shall be entitled to enter either under the homestead laws or to pay for at the minimum or double minimum price, as the case may be, not exceeding one hundred and sixty acres of the former or eighty acres of the latter class of land on making proof of his settlement and continued residence before the expiration of six months from the tenth day of June, eighteen hundred and seventy-two.

SEC. 2316. All selections of such lands by Indians heretofore made and regularly reported and, recognized as valid and proper by the Secretary of the Interior and Commissioner of Indian Affairs shall be patented to the respective Indians making the same; and all sales heretofore made and reported, where the same are regular and not in conflict with such selections, or with any other valid adverse right, except of the United States, are confirmed, and patents shall issue thereon as in other cases according to law.

SEC. 2317. Every person having a homestead on the public domain, under the provisions of this chapter, who, at the end of the third year of his residence thereon, shall have had under cultivation, for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good, thrifty condition, for each and every sixteen acres of such homestead, shall, upon due proof of the fact by two credible witnesses, receive his patent for such homestead.

[No. 3.]

An Act to Amend the Act Entitled "An Act to Encourage the Growth of Timber on Western Prairies."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An Act to encourage the growth of timber on Western prairies," approved March third, eighteen hundred and seventy-three, be, and the same is hereby, amended so as to read as follows: That any person who is the head of a family or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect and keep in a healthy growing condition for eight years, forty acres of timber, the trees thereon not being more than twelve feet apart each way, on any quarter section of any of the public lands of the United States, or twenty acres on any legal subdivision of eighty acres, or ten acres on any legal subdivision of forty acres, or one-fourth part of any fractional subdivision of land less than forty acres, shall be entitled to a patent for the whole of said quarter section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible witnesses: *Provided,* That not more than one-quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this act, unless fractional subdivisions of less than forty acres are entered which, in the aggregate, shall not exceed one quarter section.

SEC. 2. That the person applying for the benefit of this act shall, upon application to the register of the land district in which he or she is about to make such entry, make affidavit before the register, or the receiver, or some officer authorized to administer oaths in the district where the and is situated, who is required by law to use an official seal, that said entry is made for the cultivation of timber, and upon filing said affidavit with said register and said receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter section under the provisions of this act shall be required to break ten acres of the land covered thereby the first year, ten acres the second year, and twenty acres the third year after the date of entry, and to plant ten acres of timber the second year, ten acres the third year, and twenty acres the fourth year after date of entry. A party making an entry of eighty acres shall break and plant, at the times hereinbefore prescribed, one-half of the quantity required of a party who enters a quarter section; and a party entering forty acres shall break and plant, at the times hereinbefore prescribed, one quarter of the quantity required of a party who enters a quarter section, or a proportionate quantity for any smaller fractional subdivision: *Provided, however,* That no final certificate shall be given or patent issued for the land so entered until the expiration of eight years from the date of such entry; and if at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs, or legal representatives, shall prove, by two credible witnesses, that he, or she, or they have planted, and, for not less than eight years, have cultivated and protected, such quantity and character of timber as aforesaid, they shall receive a patent for such quarter section or legal subdivision of eighty or forty acres of land, or for any fractional quantity of less than forty acres, as herein provided. And in case of the death of a person who has complied with the provisions of this act for the period of three years, his heirs or legal representatives shall have the option to comply with the provisions of this act, and receive, at the expiration of eight years, a patent for one hundred and sixty acres, or receive without delay a patent for forty acres, relinquishing all claim to the remainder.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall abandon the land, or fail to do the breaking and planting required by this act, or any part thereof, or shall fail to cultivate, protect, and keep in good condition such timber, then, and in that event, such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this act: *Provided*, That the party making claim to said land, either as a homestead settler or under this act, shall give, at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General land office, and the rights of the parties shall be determined as in other contested cases.

SEC. 4. That each and every person who, under the provisions of the act entitled "An Act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, or any amendment thereto, having a homestead on said public domain, who, at any time after the end of the third year of his or her residence thereon, shall, in addition to the settlement and improvements now required by law, have had under cultivation, for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good thrifty condition, for each and every sixteen acres of said homestead, shall, upon due proof of such fact by two credible witnesses, receive his or her patent for said homestead.

SEC. 5. That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of certificate therefor.

SEC. 6. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and the receivers of the several land offices shall each be entitled to receive two dollars at the time of entry, and the same sum when the claim is finally established and the final certificate issued.

SEC. 7. That the fifth section of the act entitled "An Act in addition to an act to punish crimes against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

SEC. 8. That parties who have already made entries under the act approved March third, eighteen hundred and seventy-three, of which this is amendatory, shall be permitted to com-lete the same upon full compliance with the provisions of this act.

Approved March 13, 1874.

Miscellaneous Provisions.

Registers' and Receivers' Fees and Commissions.

SEC. 2238. Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:

1. A fee of one dollar for each declaratory statement filed and for services in acting on preemption claims.
2. A commission of one per centum on all moneys received at each receiver's office.
3. A commission to be paid by the homestead applicant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor is issued as the basis of a patent.
4. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.
5. For locating military bounty land warrants, issued since the eleventh day of February, eighteen hundred and forty-seven, and for locating agricultural-college land-scrip, the same commission, to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of one dollar and twenty-five cents per acre.
6. A fee, in donation cases, of five dollars for each final certificate for one hundred and sixty acres of land, ten dollars for three hundred and twenty acres, and fifteen dollars for six hundred and forty acres.
7. In the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges,) a fee of one dollar for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location.
8. A fee of five dollars per diem for superintending public land sales at their respective offices; and, to each receiver, mileage in going to and returning from depositing the public moneys received by him.
9. A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

10. Registers and receivers are allowed, jointly, at the rate of fifteen cents per hundred words for testimony reduced by them to writing for claimants, in establishing pre-emption and homestead rights.

11. A like fee as provided in the preceding subdivision, when such writing is done in the land office, in establishing claims for mineral lands.

12. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section.

Lands not Subject to Pre-emption.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit:

1. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.
2. Lands included within the limits of any incorporated town, or selected as the site of a city or town.
3. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.
4. Lands on which are situated any known salines or mines.

Title to Town Lots subject to Mineral Rights.

SEC. 2386. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town-lots to be acquired shall be subject to such reconized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes, as against the United States.

Penalty for the False Making, Altering, etc., of any Instrument or Writing, etc., Concerning Lands,etc., in California.

SEC. 2471. Every person who falsely makes, alters, forges, or counterfeits; or causes or procures to be falsely made, altered, forged or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, or any title-paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, shall be punishable by imprisonment at hard labor not less than three years and not more than ten years, and by a fine of not more than ten thousand dollars.

Penalty for Falsely Dating any Evidence of Title under Mexican Authority, etc., to Lands in California.

SEC. 2472. Every person who makes, or causes or procures to be made, or willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July, eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in the preceding section.

Penalty for Presenting False Evidences of Title, etc., to Lands in California, and Prosecuting Suits Thereon.

SEC. 2473. Every person who, for the purpose of setting up or establishing any claim againss the United States to lands, mines, or minerals within the State of California, presents, or causet or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseno, map, expediente, or part of an expediente, title paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim to be founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseno, map, expediente, or part of an expediente, title-paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely dated, shall be punishable as prescribed in section twenty-four hundred and seventy-one.

Additional Surveys of Lands for Pre-Emption.

[Reports Continued from Page 11.]

The following described plats of lands recently surveyed in this State up to October 14th, 1875, have been sent to the Land Districts named, from the Surveyor General's office in San Francisco, since the foregoing tables in this book were put in type. Said land now being subject to homestead and pre-eemption.

SAN FRANCISCO DISTRICT.—[Mt. Diablo Meridian.]

Township 10-N: Range 13-W: June 7th, 1875. T-20-S; R-11-E; June 16th, 1875. T-19-S; R-11-E; June 16th, 1875. T-19-S; R-10-E: June 16th. 1875. T-22-N; R-18-W; June 26th, 1875. T-23-N; R-18 and 19-W; June 26th, 1875. T-16-N; R-12-W; July 7th, 1875. T-1-N; R-1-W; July 27th. T-11-N; R-8-W: Aug. 8th. T-12-N; R-12-W; Aug. 25th. T-12-N; R-13-W; Aug. 25th. T-12-N; R-10-W; Sept. 10th. T-22-S: R-13-E; Sept. 13th. T-10-S; R-5-E; Sept. 22d. T-25-S; R-10-E; Sept. 23d. T-10-N: R-12-E; Oct. 13th.

HUMBOLDT DISTRICT.—[Humboldt Meridian.]

Township 8-N; Range 1-E; Aug. 5th. T-5-S; R-1-E; Aug. 30th.

SHASTA DISTRICT.—[Mt. Diablo Meridian.]

Township 27-N; Range 4-E; Sept. 11th. T-29-N; R-1-E; Sept. 24th. T-28-N; R-4-E; Oct. 11th.

SUSANVILLE DISTRICT.—[Mt. Diablo Meridian.]

Township 28-N; Range 5-E; Sept. 11th. T-27-N; R-6-E; Sept. 11th. T-27-N; R-7-E; Sept. 28th.

MARYSVILLE DISTRICT.—[Mt. Diablo Meridian.]

Township 19-N; Range 6-W: Aug. 20th. T-20-N; R-6-W; Aug. 20th. T-19-N; R-5-W; Aug. 20th. T-23-N; R-1-E: Aug. 20th.

STOCKTON DISTRICT.—[Mt. Diablo Meridian.]

Township 11-S; Range 10-E; Oct. 7th.

SACRAMENTO DISTRICT.—[Mt. Diablo Meridian.]

Township 11-N; Range 20-E; July 8th. T-13-N; R-18-E; July 8th. T-12-N; R-19-E; July 8th. T-12-N; R-18-E; July 8th. T-11-N: R-17-E: Oct. 13th. T-11-N; R-18-E; Oct. 13th. T-21-N; R-19-E; Oct. 13th. T-8-N; R-13-E; Oct. 14th.

LOS ANGELES DISTRICT.—[San Bernardino Meridian.]

Township 10-S: Range 2-W; June 30th. T-9-S; R-1-W; June 30th. T-10-S; R-1-W; June 30th. T-7-S; R-9-W; Aug. 10th. T-3-N; R-1-W: Aug. 11th. T-3-N; R-2-W: Aug. 11th. T-1-N; R-8-W; Sept. 11th. T-1-N; R-9-W; Sept. 21st. T-13-S; R-2-E; Sept 21st. T-15-S; R-3-E; Sept. 21st. T-16-S; R-1-E; Sept. 21st. T-13-S; R-1-W; Sept. 21st. T-11-S; R-1-W; Sept. 21st. T-9-S; R-2-W; Sept. 21st. T-6-N: R-2-E; Sept. 24th. T-6-N: R-4-E; Sept. 24th. T-5-N; R-23-E; Sept. 24th. T-6-N; R-10-E; Sept. 24th. T-5-N; R-22-E: Sept. 24th, T-6-N; R-5-E; Sept. 24th. T-12-S; R-4-E; Sept. 30th. T-1-N; R-5-W; Oct. 14th.

List of Places Having Post Offices in California.

The following is a correct list of Post Offices in California, arranged according to Counties alphabetically.

ALAMEDA CO.
Alameda.
Altamont.
Alvarado.
Berkeley.
Brooklyn.
Centreville.
Dacato.
Dougherty's Sta.
Harrisburgh.
Haywood.
Livermore.
Midway.
Mission San Jose.
Mount Eden.
Niles.
OAKLAND.
Pleasanton.
San Leandro.
San Lorenzo.
Sunol Glen.
Wash. Corners.
West Oakland.
ALPINE CO.
Markleeville.
Monitor.
SILVER MOUNT'N.
Woodford's.
AMADOR CO.
Amador City.
Buena Vista.
Drytown.
Fiddletown.
Forest Home.
Ione Valley.
JACKSON.
Lancha Plana.
Pine Grove.
Plymouth.
Shake Ridge.
Sutter Creek.
Volcano.
BUTTE CO.
Bangor.
Berry Creek.
Bidwell's Bar.
Biggs' Station.
Brush Creek.
Cana.
Central House.
Cherokee.
Chico.
Clipper Mills.
Durham.
Forbestown.
Grainland.
Gridley.
Inskip.
Lovelock.
Magalia.
Moore's Station.
Nelson.
Nord.
OROVILLE.
Peutz.
Powellton.
Yankee Hill.
CALAVERAS CO.
Angel's Camp.
Big Trees.
Camanche.
Campo Seco.
Chili.
Copperopolis.
Fourth Crossing.
Gwin Mine.
Jenny Lind.
Milton.
Mokelumne Hill.
Mountain Ranch.
Murphy's.
Mosquito Gulch.
Railroad Flat.
SAN ANDREAS.
Telegraph City.
Valley Springs.
Vallicito.
West Point.
COLUSA CO.
Butte City.
Central.
Coast Range.
College City.
COLUSA.
Elk Creek.
Freshwater.
Grand Island.
Jacinto.
Kanawha.
Leesville.
Newville.
Olimpo.
Princeton.
Saint John.
Sulphur Creek.
Sycamore.
Venado.
CONTRA COSTA.
Alamo.
Antioch.
Black Diamond.
Clayton.
Concord.
Danville.
La Fayette.
MARTINEZ.
Nortonville.
Pacheco.
Point of Timber.
San Pablo.
San Ramon.
Somersville.
Walnut Creek.
Webb's Landing.
DEL NORTE CO.
CRESCENT CITY.
Happy Camp.
Smith River.
EL DORADO CO.
Clarksville.
Coloma.
Diamond Spring.
El Dorado.
Fair Play.
Garden Valley.
Georgetown.
Granite Hill.
Green Valley.
Greenwood.
Grizzly Flats.
Kelsey.
Lake Valley.
Latrobe.
Mendon.
Nashville.
Newtown.
Pilot Hill.
PLACERVILLE.
Pleasant Valley.
Rowland.
Salmon Falls.
Shingle Springs.
Slippery Ford.
Spanish Dry Diggings.
Tallac.
FRESNO CO.
Berendo.
Big Dry Creek.
Borden.
Buchanan.
Firebaugh's.
Fort Miller.
FRESNO CITY.
Fresno Flats.
King's River.
Kingston.
New Idria.
Panoche.
Riverdale.
Wheatville.
HUMBOLDT CO.
Arcata.
Bald Hills.
Camp Grant.
EUREKA.
False Cape.
Ferndale.
Garberville.
Gas Jet.
Hoopa Valley.
Hydesville.
Mad River.
Martin's Ferry.
Orleans.
Petrolia.
Rohnerville.
Table Bluff.
Trinidad.
Upper Mattole.
INYO CO.
Big Pine.
Cerro Gordo.
Darwin.
Fish Springs.
INDEPENDENCE.
Lagunita.
Lone Pine.
Oasis.
Olancha.
Panamint.
Round Valley.
KERN CO.
Caliente.
BAKERSFIELD.
Delano.
Glennville.
Havilah.
Kernville.
Panama.
Piute.
Tehichipa.
Tejon.
Weldon.
LAKE CO.
Allen Springs.
Bartlett Springs.
Glenbrook.
Gravelly Valley.
Guenoc.
Highland Spr'gs.
Knoxville.
LAKEPORT.
Lower Lake.
Middleton.
Uncle Sam.
Upper Lake.
Witter's Springs.
Zem Zem.
LASSEN CO.
Argusville.
Copper Vale.
Hayden.
Janesville.
Junction House.
Long Valley.
Madeline.
Merrillville.
Milford.
SUSANVILLE.
LOS ANGELES.
Anaheim.
Andrew's Station
Azusa.
Capistrano.
Compton.
El Monte.
LOS ANGELES.
Los Nietos.
Machado.
Orange.
Pasadena.
Pomona.
San Fernando.
San Gabriel.
Santa Ana.
Santa Mocica.
Tustin City.
Westminister.
Wilmington.
MARIN CO.
Angel Island.
Black Point.
Bolinas.
Marshall.
Nicasio.
Olema.
San Quentin.
SAN RAFAEL.
Saucelito.
Tomales.
MARIPOSA CO.
Bear Valley.
Coulterville.
Hornitos.
Indian Gulch.
MARIPOSA.
Mount Bullion.
Yo Semite.
MENDOCINO CO
Albion.
Brownville.
Cahto.
Capella.
Caspar.
Christine.
Covelo.
Cuffey's Cove.
Gualala.
Hermitage.
Kibesillah.
Little River.
Manchester.
Mendocino.
Miller.
Navarro Ridge.
Noyo.
Pomo.
Potter Valley.
Punta Arenas.
Sanel.
Sherwood Valley.
UKIAH.
Whitehall.
Willits.
Yorkville.
MERCED CO.
Hopeton.
Livingston.
Los Banos.
MERCED.
Merced Falls.
Plainsberg.
San Luis Ranch.
Snelling.
Union.
MODOC CO.
Aidenville.
Canby.
Cedarville.
DORRIS BRIDGE.
Eagleville.
Fort Bidwell.
Hot Spring.
Lake City.
Willow Ranch.
MONO CO.
Benton.
Bishop Creek.
BRIDGEPORT.
Coleville.
MONTEREY CO.
Blanco.
Castroville.
Chualar.
Emmett.
Gabilan.
Gonzales.
Jolon.
Monterey.
Natividad.
Picacho.
Pleito.
SALINAS.
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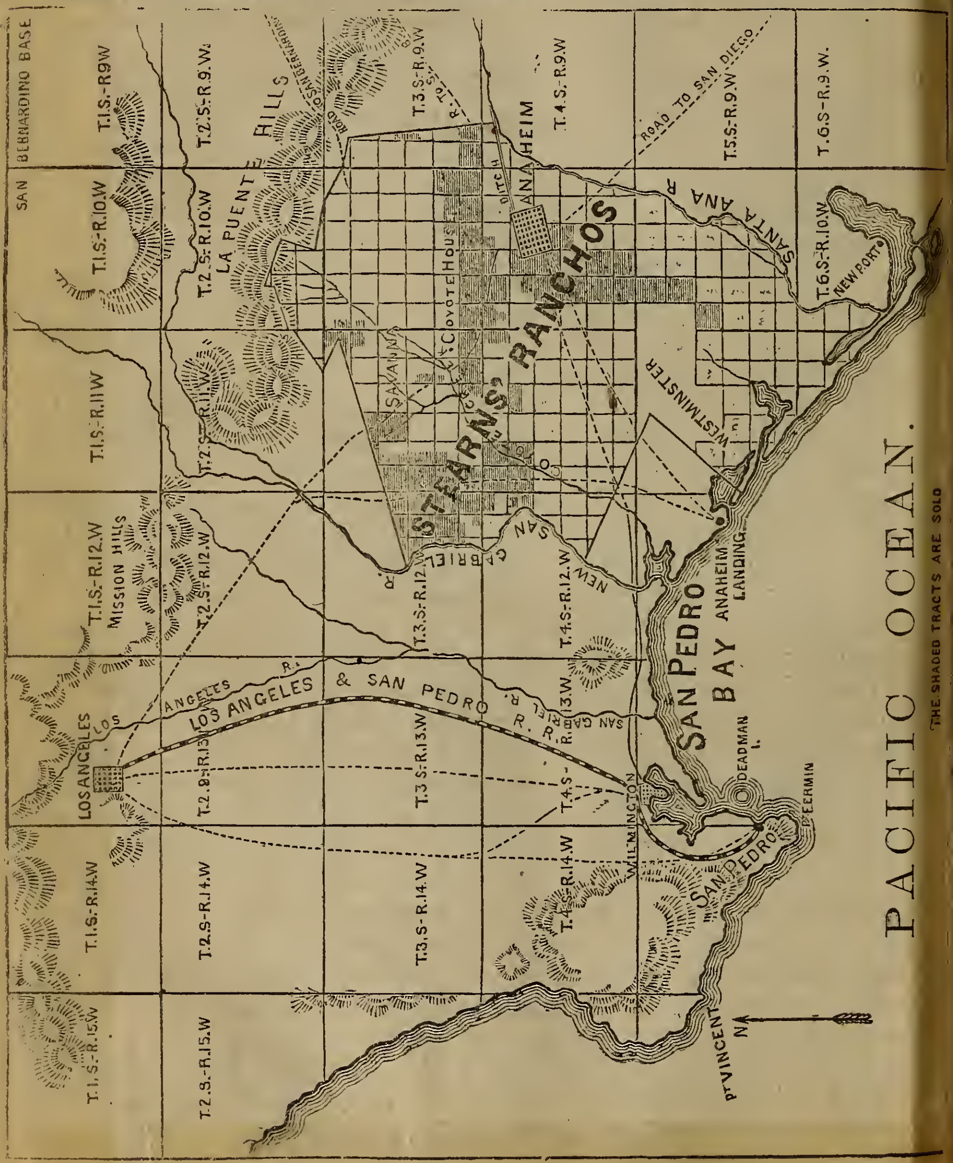
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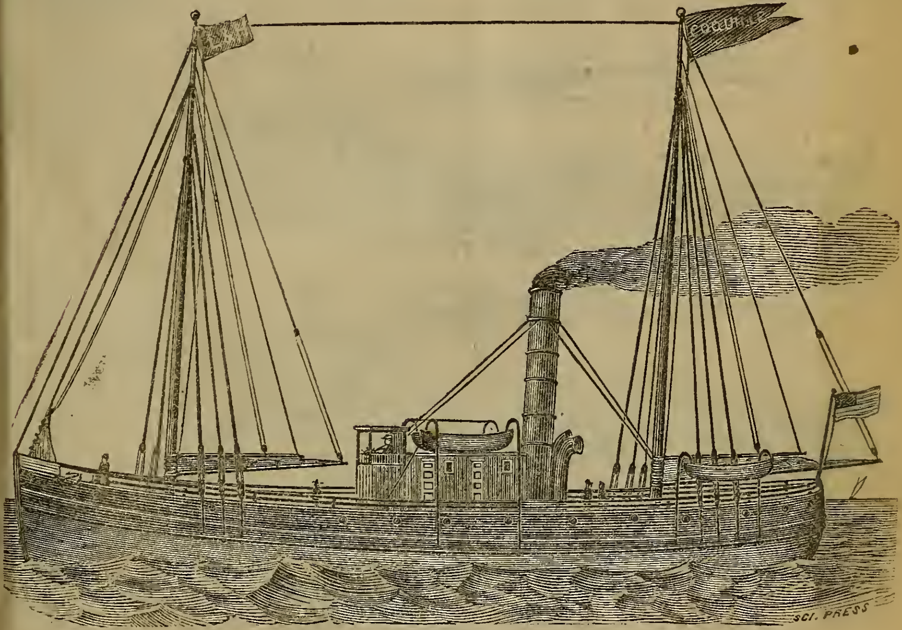

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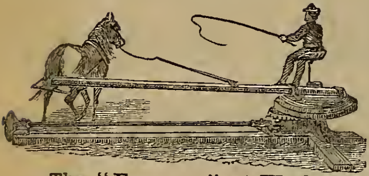

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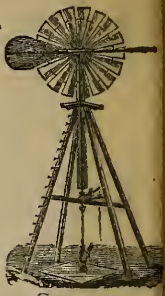

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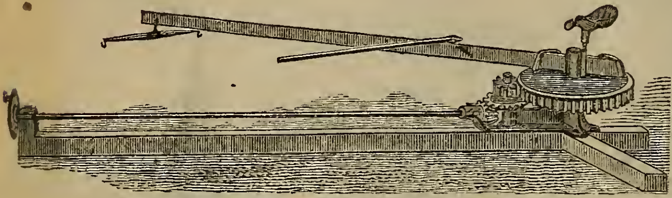

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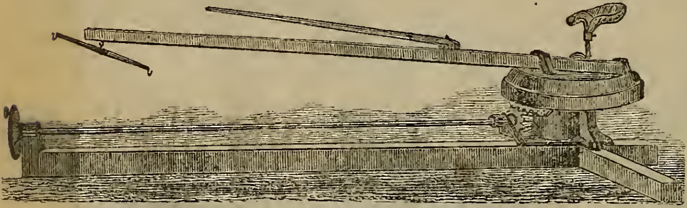

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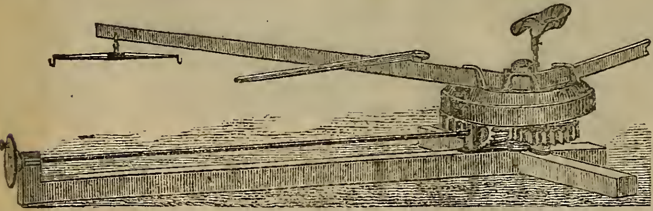

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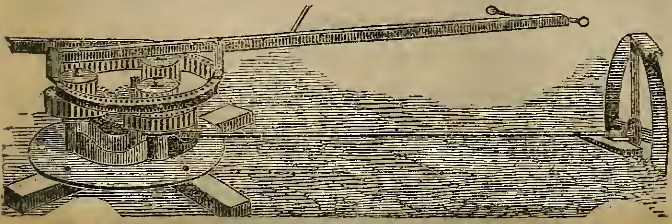

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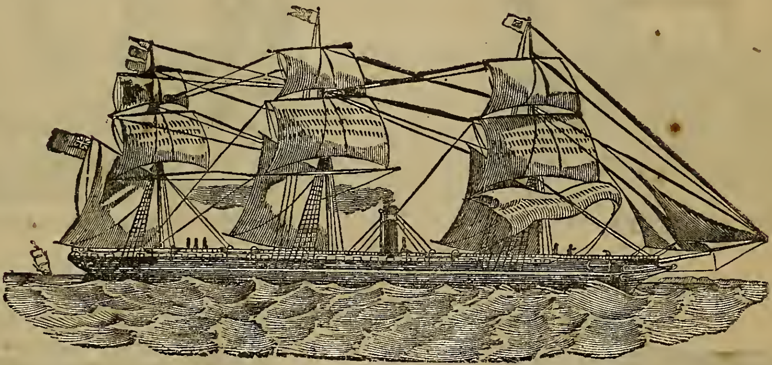

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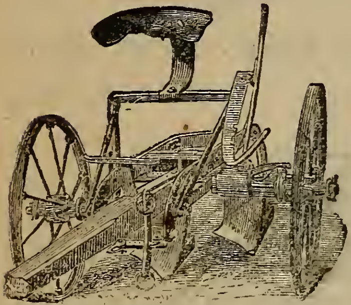

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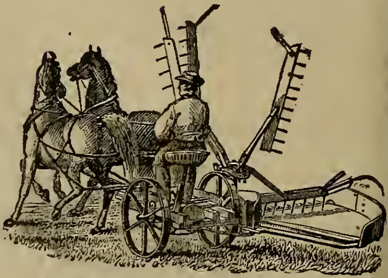

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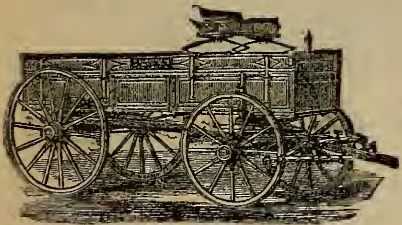

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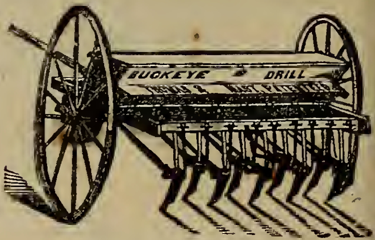

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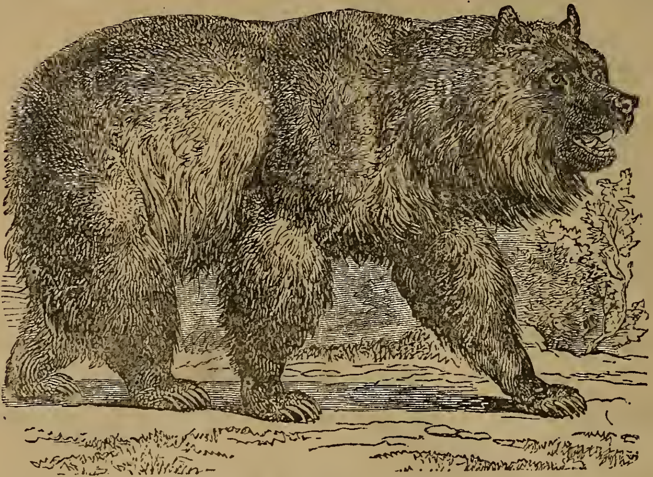

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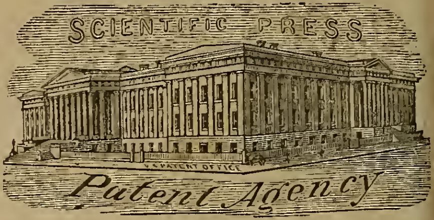

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7

THE

AGRICULTURAL LANDS

OF

CALIFORNIA.

A GUIDE TO THE IMMIGRANT AS TO THE PRODUCTIONS,
CLIMATE AND SOIL OF EVERY COUNTY
IN THE STATE.

BY

BENTHAM FABIAN,

FOUNDER OF THE CALIFORNIA LABOR EXCHANGE.

SAN FRANCISCO:
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1869.

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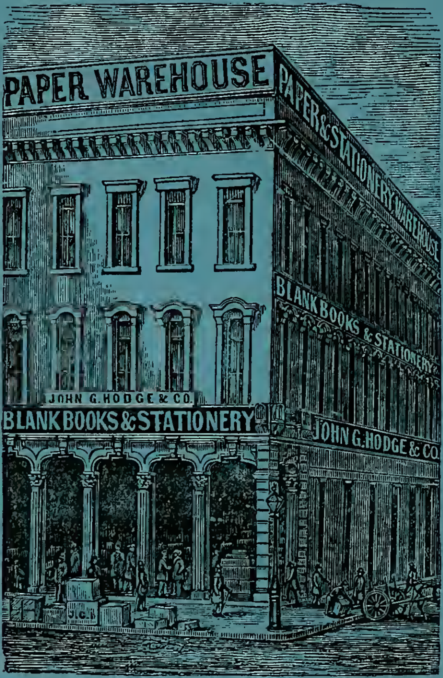
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PREFACE.

The object of this work is to afford to immigrants coming to this state, with a view to engaging in agricultural pursuits, information concerning the location and price of lands likely to suit their purpose, and to give that information in as concise a form as possible.

The extension of railroad communication in California, which is now taking place, must speedily bring many rich agricultural districts within reach of a market which have hitherto been almost entirely shut off from communication with a port of export. An instance in point is Kern County, which comprises about 1,500,000 acres, nearly one-half of which is adapted for agricultural and grazing purposes; whereas, in 1867, in consequence of a deficiency of roads, only fifteen thousand acres were under cultivation. A railroad is now projected which will, when completed, render Kern County one of the most flourishing agricultural districts in the state.

Next in importance to the building of railroads is the great work of reclaiming the millions of acres of swamp land which exist within the borders of the State. Particular attention has been called to this description of land, which can be purchased by the agriculturist for $1 per acre and brought into cultivation at a cost which will not exceed a tax of from $3 to $5 per acre. An estimate has been made of the cost of land in each county and the most eligible spots for settlement have been pointed out. It was contemplated to give an estimate of the land open for pre-emption in each state, but after much inquiry and research this was found to be impracticable. The reports of government surveys are so incomplete, and land is being taken up in such large quantities daily, that any estimate we could form would serve rather to misguide the intending settler than to furnish him with reliable information.

The author of this work has availed himself freely of the facts contained in Cronise's "Natural Wealth of California" and the publications of Henry G. Langley—"The Pacific Coast Business Directory," etc. It is hoped that the attempt to present in a concise and condensed form the facts concerning California likely to be of value to the incoming immigrant has been successfully carried out, and that, at least, the usefulness of its design will be appreciated by the California public, ever ready to encourage any work which may tend to the development of their glorious state.

THE AGRICULTURAL LANDS OF CALIFORNIA.

No country in the world offers to the farmer greater inducements than does California. In general, land is rich and cheap. Such is the mildness of the climate that neither feed nor shelter is required to be provided for stock during the winter season. The grain when threshed lies out in the field, and the necessity of building barns is dispensed with. In most parts of the state the farmer in the winter season need spend but little money in meat provisions, as his gun will amply supply the wants of his household. Quail may be shot by thousands; deer are abundant, and the country swarms with wild duck, hares, rabbits and other descriptions of game. In the summer time the delicious trout to be caught in the numerous brooks, form an acceptable addition to the farmer's table. California wheat is unsurpassed in quality by any in the world, and commands a high price in Eastern and European markets. Two crops are produced from one seeding, the second being termed the volunteer crop, which springs up without any cultivation from the seed left after the removal of the first crop. The largest wheat counties of California in 1867 were, Stanislaus, 144,852 acres yielding 2,317,632 bushels—averaging sixteen bushels; Solano, 61,329 acres and 1,454,830 bushels—averaging nearly twenty-four bushels; Yolo, 47,705 acres and 1,446,579 bushels—averaging over thirty bushels; Sonoma, 123,814 acres, 1,079,181 bushels; Santa Clara, 80,339 acres, 1,229,309 bushels; San Joaquin, 91,800 acres, 1,197,400 bushels; Alameda, 59,801 acres, 1,322,454 bushels. The wheat crop of 1867 came from a largely increased area of soil, a considerable part being planted for the first time. In round numbers there was probably full 1,200,000 acres in wheat in 1868, and the average production per acre full twenty per cent. more than in the preceding year. The lowest estimate of the wheat crop of 1868 is generally stated at 20,000,000 bushels, while some parties estimate it at 25,000,000 bushels. It is probably the largest amount named, as while the receipts at San Francisco—the only shipping port—were, in 1867, from July 1st to December 12th, a period of a little over five months, 560,216 quarter sacks flour, and 3,819,483 one hundred pound sacks of wheat, the receipts at the same port in 1868, for the same time, were 586,805 quarter sacks flour, and 4,241,439 one hundred pound sacks wheat. The product of wheat for the present year will amount to nearly double these figures. Oats are easily cultivated, being indigenous to the soil. The average yield is thirty bushels per acre. Much of this grain is cut green and made into hay. Large quantities of barley of a superior quality for malting, are raised. Dairy farming is very profitable in California, and large quantities of butter and cheese are annually produced. Labor is scarce and high priced; and were it not for the Chinamen in the state, one-half our luxuriant harvest would annually rot in the fields for want of hands to gather it. The presence of this race is looked upon as a great grievance by the lowest class of laborers in the community, but their objection to their employment is a thoroughly unreasonable one, as there is work enough for all. The reports of the California Labor and Employment Exchange show a demand for labor largely in excess of the supply. Farmers of small capital will find in the Chinese most profitable and desirable servants ; they speedily learn anything, are patient, industrious and quiet. While the price of white labor is from thirty to forty dollars per month and board, Chinamen can be hired at from thirty to thirty-five dollars per month without board, they providing and cooking their own provisions. Having given a general idea of the prospect offered to the farmer settling in California, we will now proceed to give some of the general characteristics of the several counties. The counties of California are generally classified as the Southern Counties, Coast Counties, Northern Counties, Mountain Counties and Valley Counties.

SOUTHERN COUNTIES.

The Southern Counties comprise San Diego, San Bernardino, Los Angeles, Santa Barbara, San Luis Obispo and Kern Counties, which are known collectively as Southern California. No more fitting introduction to the remarks we have to make concerning these counties can be found than the following important and instructive letter, written by the Commissioner of the General Land Office, in response to inquiries made by the American Consul at Rotterdam, Holland, on behalf of a number of inhabitants of that country, who wished to emigrate to this state :

UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, May 13, 1869.

ALBERT RHODES, *United States Consulate, Rotterdam, Holland*—DEAR SIR. In reply to your letter of the 7th ult., requesting information in regard to public lands in Southern California, especially in the neighborhood of Los Angeles, I have to state that the valuable lands in the southern portion of that region, in the counties of San Diego, Los Angeles, San Bernardino, Kern, Santa Barbara, and San Luis Obispo, are to a considerable extent held under Mexican grants, many of which have been confirmed by the United States since we have succeeded to the sovereignty of the country. The counties of San Luis Obispo and Kern may form an exception to this statement, as Government land of excellent quality exists in each ; but so much has been recently entered under the pre-emption and homestead laws, and located with college scrip, and still continues to be taken, in consequence of a numerous emigration to Southern California within the past two years, that it would be hazardous to undertake to specify the quantity of public land at present subject to entry, as the next returns from the local officers may show the amount considerably diminished. There is however an abundance of unoccupied land of the best quality in each of the counties named, which, whether belonging to the Government or in the hands of private owners, may be readily obtained at very moderate prices, generally varying from $1 to $5 and upwards per acre, according to value.

Lands in the hands of persons claiming under Mexican grants confirmed by the United States, are perfect as to title. Lands claimed under grants not so confirmed, seldom rate at a high figure ; and should the title subsequently fall, and the lands be declared a part of the public domain, the laws of the United States extend to parties in possession under conveyances from former grantees, a pre-emption right to enter the land so occupied at the minimum price of $1 25 per acre, so that in either event the settler will obtain the land at a very low price. Indeed, at the present day no apprehension need be felt about the title of lands in California, as most of the old Mexican grants, valid or invalid, have passed through the ordeal of judicial investigation, and have either been confirmed or the lands claimed declared part of the public domain ; and even if an occasional claim should be met with not acted upon, the Acts of Congress make such liberal provision in favor of *bona fide* settlers that no great injury can result in the event of such claim proving invalid.

An emigrant from Europe, entirely unacquainted with the land system of the United States, or the nature of titles in this country, and the mode of recording them, might be liable to make a bad bargain, unless he fully informed himself. But there are abundant opportunities of ascertaining the condition of the title of every tract of land, and a person of ordinary prudence need not to go amiss.

Government lands in California may be taken under the pre-emption or homestead laws, the entries being effected in the manner pointed out in the accompanying circular from this office, dated March 10th, 1869. In the southern part of the state these lands are mostly located to the eastward from the Coast Mountains ; but there are, nevertheless, in the western portion of each of the above named counties, small quantities of public land not yet occupied, which may be entered at the District Land Office at San Francisco, excepting lands in Kern County, which must be entered at Visalia, in Tulare County. The localities of the different places mentioned may be readily understood by inspecting the accompanying map of that state ; an examination of which will also show the localities of private grants confirmed at the date of the map, the names of which, with corresponding numerals, are placed in the margin.

It will be observed that the good lands of Southern California are found on the Pacific, in the valleys and on the foot-hills of the Coast Mountains, extending inland from twenty-five to seventy-five miles, embracing an area susceptible of cultivation and admirably adapted to horticulture, equal in extent to the state of Massachusetts.

The climate of these valleys, some little distance from the coast, is not surpassed in any portion of the world ; the intense heat experienced in the arid plains further to the east being modified here by an altitude of several thousand feet above the level of the ocean. Numerous streams of water flow through the valleys—many of them permanent—furnishing the means of irrigating large bodies of land. The grape vine flourishes here luxuriantly ; more than 6,000,000 being cultivated in Los Angeles County alone, yielding one and a half million gallons of wine, and more than one hundred thousand gallons of brandy, besides large quantities of choice grapes for the San Francisco market.

The grape attains vigorous growth in almost every variety of soil, is remarkably free from disease, and requires no irrigation. It flourishes as well in the foot-hills and on the sides of the mountains as in the valleys, and produces a stock strong enough to dispense with the necessity of stakes, thus greatly reducing the amount of labor required in a vineyard. A vine is now growing in Santa Barbara County twelve inches in diameter four feet from the ground. At six feet from the ground the stem is divided, the branches extending in every direction, covering an area of 10,000 square feet, and producing annually 12,000 pounds of grapes, in bunches from fifteen to eighteen inches in length, averaging from six to seven pounds each. This vine is of the old Mission grape, and was planted forty-three years ago.

But the soil and climate of these valleys are equally well adapted to the growth of the orange, lemon, lime, citron, fig, walnut, olive, banana, almond, filbert, and currant ; and wheat, barley, corn, potatoes, cotton, tobacco, and sugar-cane thrive well. In an orange grove of 2,000 trees, near Los Angeles, the annual crop averages 1,500 oranges to each tree, some of the trees producing as many as 4,000 each. The sides and summits of the mountains contain an abundance of pine, cedar, hemlock, maple and oak ; and deposits of gold, silver, copper, tin, marble, alabaster, asphaltum, petroleum, sulphur, salt and coal are numerous.

* * * * * * * * * *

Of the 4,000,000 or 5,000,000 acres in Southern California adapted to the vine and the mulberry tree, and a great variety of semi-tropical fruits, not much over 100,000 acres are thus cultivated—probably not that quantity ; and although that region is capable of accommodating and comfortably supporting a population of 1,500,000, its present population falls short of 40,000.

Hundreds of thousands of acres of the finest lands, blest with a climate equal to that of the fairest portions of Italy, are held in extensive tracts under Mexican grants, and are either entirely unoccupied or devoted to grazing; the proprietors, however, manifesting a willingness to subdivide and sell their claims as rapidly as the increase of settlers creates a demand for the same. As an illustration of what may be accomplished by an enterprising colony of settlers, the village of Anaheim, in Los Angeles County, may be referred to. In the summer of 1857 a company of Germans acquainted with grape culture, bought 1,265 acres of land in the valley of the Santa Ana River at $2 per acre, dividing it into fifty rectangular lots, of twenty acres each, with streets between them, and subdividing the residue into sixty town lots—one for each of the proprietors, and ten for public purposes. The lots were all fenced with willows, sycamore, and poplars, and about ten acres of each planted with vines. At present there are over 1,000,000 vines growing in this village—most of which are in bearing—already producing annually over 100,000 gallons of wine and some 10,000 gallons of brandy. Of the various kinds of fruit trees there are more than 10,000. Every one of the fifty lots contains a comfortable homestead, and the village has a population of about 400, with a good public school, several stores, and a post office in the town. Each of these lots is worth at the present time fully $10,000, and is continually increasing in value. The history of Anaheim demonstrates the advantage of settlements by colonies. Had each of the original fifty settlers of the village located by himself, cut off from the encouraging sympathy and mutual counsel of congenial neighbors, it is doubtful whether succsss would have crowned the efforts of one-fourth of their number; but adopting the colony plan, they have in twelve years advanced to a situation not only of comfort, but of comparative wealth.

There are many opportunities, not only in the county of Los Angeles, but in each of the others named above, and, in fact, in nearly every county in California, to repeat the experiment of the Anaheim settlement, under circumstances even more favorable than existed in that case.

Since 1857 the character of California as one of the best wine-producing countries in the world has been fully established; many foreign varieties of the grape have been tested; and much that twelve years ago rested upon uncertainties has been established by repeated experiments; in addition to which the great continental railway from the Atlantic to the Pacific has been completed, opening a market for the products of the California vineyards.

All these advantages, that did not exist when Anaheim was founded, will render the trials of similar colonies much less severe.

Very respectfully, your obedient servant,

JOS. S. WILSON, Commissioner.

LOS ANGELES COUNTY.

The most important of the southern counties of California is Los Angeles. It comprises nearly 2,000,000 acres, nearly two-thirds of which are fit for cultivation or grazing purposes. Much of the land now used simply for grazing, would, if brought into cultivation, yield large crops. The products of this county have been so fully enumerated in Commissioner Wilson's letter, that further reference to them is needless. The price of land ranges from $1 to $100 per acre. There are still large tracts of land in the possession of Spanish settlers, which can be bought at the former figure. In July last the San Fernando Homestead Association bought from Pio Pico about 116,000 acres of land, well adapted for agricultural purposes, for $180,000. This is one-half of the San Fernando Ranch, situate about 15 miles northeast of Los Angeles. Los Angeles is a perfect paradise for farmers, and when it is connected with San Francisco by railroad, every acre of it will be brought under cultivation. A railroad connecting Los Angeles with Wilmington, the principal seaport, is rapidly approaching completion, and will prove of great service to the wine and grape growers, in enabling them to send their products to a market.

The production of grapes in Los Angeles County is very large, 6,838,000 vines being grown within its limits. From the product of these vines 1,500,000 gallons of wine and 100,000 of brandy were made in 1867. Many of the wine growers are wine manufacturers, and sad stuff some of them produce by attempting a business about which they know nothing. Some of these amateur wine makers would speedily make a fortune by adopting the patented process of Mons. d' Heureuse, mentioned at the end of this book. A large proportion of the wine growers, however, are content with producing the grape, which they sell at large profit to the wine manufacturers. In May, 1868, a company was incorporated under the title of the Los Angeles Wine Growers' Association, having for its object the purchase of the grapes raised by the viniculturists of Los Angeles, and converting the same into wine and brandy. The Association has been very successful and has a large sale for its light wine, port, sherry, and angelica wines and California grape, peach and walnut brandies. The white wine is a very good article comparing favorably with that produced in the Rhenish provinces; the port is a sound, good wine, with more of the astringent quality which so much improves the flavor of this wine, than is found in that made by other manufacturers; the brandy is for the most part too fiery to suit any but a palate well-seasoned by a long course of ardent spirits; age will no doubt give it softness; but from *new* California brandy, as from plague, pestilence and sudden death, may we be delivered. Send it all to our brethren in the East; they like it and are heartily welcome to it.

The county seat of Los Angeles County is the city of Los Angeles, which has a population of 7,000 inhabitants. It is 389 miles from San Francisco. It can be reached by steamer to San Pedro, and stage and railroad to Los Angeles. The fare is $23. Another route is by railroad from San Francisco to Gilroy, fare $4, and stage from thence, fare $25—$29 in all. Los Angeles connects with stages for San Diego, Fort Yuma, Tucson, Wilmington, San Bernardino, La Paz and Clear Lake.

SAN BERNARDINO COUNTY.

San Bernardino is the largest county in the State, containing over 10,000,000 acres, three-fourths of which is unfit for cultivation, containing desert valleys and volcanic rocks. The land still open for pre-emption is being taken up so rapidly at the present time, that it is impossible to make any record of the quantity still unsettled. The immigrant in want of a farm, will find no difficulty in purchasing from the owners of the numerous large ranchos in this county, rich agricultural land at from $1 to $2 per acre. The whole population of the county does not at present exceed six thousand.

In this county, which is admirably suited to the raising of the grape, is the famous Cucumungo Vineyard, situate about 45 miles south from Los Angeles. It contains 160,000 vines, some of which are the oldest in the state. These vines grow at the foot of volcanic hills, in a mixed black soil of rocks and gravel. The vineyard is owned by Mr. Sainsevain, who produces from it port, angelica, the celebrated Sainsevain Wine Bitters, and a white wine which bears a resemblance to madeira. This wine is the most matured and least crude of any California wine we have tasted, and after it has attained the age of ten years, is equal to the best madeira. This superiority is partly due to the nature of the soil and climate, but chiefly, we are inclined to think, to the great age of the vine, young vines as a rule making raw, crude wine which no age will soften, while those which have by age attained substantial stems, make a wine more resembling the old wines of Europe. Mr. Sainsevain also produces large quantities of brandy from his vineyard.

The county seat of San Bernardino county is San Bernardino, distant from San Francisco 454 miles. The fare by steamer to San Pedro and stage to San Bernardino is $27.

SANTA BARBARA COUNTY.

Santa Barbara contains about 1,500,000 acres, one-half of which are unfit for agricultural purposes, but are admirably adapted for sheep or cattle. This is one of the most important grazing counties in the state; cattle, sheep, horses and hogs are raised by thousands. Land can be obtained at from $1 to $5 per acre.

The county seat of Santa Barbara county is Santa Barbara, which is 280 miles from San Francisco. It can be reached by steamer, which runs weekly; the fare is $15. Those who prefer land travel can take the railroad to Gilroy, (fare $4) and proceed thence by stage to Santa Barbara; the fare is $10.

SAN LUIS OBISPO COUNTY.

San Luis Obispo is bounded on the north by Monterey; on the east by Kern; on the south by Santa Barbara County, and on the west by the Pacific ocean. It contains about 1,500,000 acres, nearly 1,000,000 acres of which is mountainous, and fit only for grazing. The land adapted to agricultural purposes raises grain and fruit in abundance. Land is cheap in this county.

San Luis Obispo is the county seat of San Luis Obispo county. It is 209 miles from San Francisco, from which place a steamer runs three times a month. The fare is $15. It can also be reached by taking the railroad to Gilroy, and from thence the stage fare is $17. San Luis Obispo connects by stage with San Simeon.

KERN COUNTY.

Kern county comprises about 1,500,000 acres, nearly one-half of which is adapted to agricultural and grazing purposes. It abounds in fine timber, is well watered by streams which flow from the mountains, and is destined to become one of the best agricultural counties in the state. Its progress has hitherto been checked for the want of roads, but lately this has been supplied, and communication with a market has been opened. Within a short time a railroad will traverse the whole length of the county. The soil is well adapted to the culture of wheat, sixty bushels to the acre being no uncommon crop. Much of the land is suited to the cultivation of cotton, and good crops have been raised. Ere long a flourishing agricultural community will spring up in the heart of the now sparsely inhabited Kern Valley.

The county seat of Kern county is Havilah, a town of about 800 inhabitants. It is 359 miles from San Francisco. It is reached by railroad to Gilroy, and thence by stage, the fare by the latter being $39. From Havilah a line of stages runs to Shermantown, White Pine, distance 425 miles, Largeland, 40 miles, Soldiers' Wells, 70, Little Lake, 100, Big Lake, 120, and as far as Duckwater—a distance of 407 miles.

COAST COUNTIES.

MONTEREY COUNTY.

Monterey county is bounded on the south by the Pacific ocean, and San Luis Obispo county; on the east by Fresno and Merced counties; on the west by the Pacific ocean, and on the north by Santa Clara and Santa Cruz counties. It averages nearly eighty miles in length by fifty miles in width, and contains about 2,500,000 acres. Seven hundred thousand acres are good agricultural land, less than fifty thousand of which were under cultivation in the summer of 1867. The greater portion of the county is devoted to sheep and cattle raising, and still remains in the hands of the Spanish settlers, from whom large tracts suitable for farms can be purchased at from $1 to $2 per acre. Wheat can be raised in large quantities in this county, and every variety of fruit and vegetable flourishes.

Monterey is the county seat of Monterey county. It is 100 miles from San Francisco; it can be reached by steamer, or by railroad and stage via Gilroy. The fare is $7.

SANTA CRUZ COUNTY.

The county of Santa Cruz is more celebrated for its manufactures than for its agricultural products, though it contains some of the richest lands in the state It comprises 320,000 acres, of which 40,000 acres are the richest bottom lands along the various streams that pass through it, and 50,000 acres of agricultural land which form terraced plateaus caused by the repeated uprisings of the land. Land in this county generally commands a high price—from $5 to $50 an acre. There are seven tanneries in Santa Cruz; the California Powder Works are located here, as well as paper mills and other manufactories.

The county seat of Santa Cruz county is Santa Cruz, distant 76 miles from San Francisco. It is reached by steamer, which runs three times a month—fare $10, or by railroad to Santa Clara, fare $1 50, and thence by stage, fare $3. Santa Cruz connects with stages for Soquel and Watsonville.

SANTA CLARA COUNTY.

This county is bounded on the north by Alameda and San Mateo counties; on the south by Monterey; on the east by Stanislaus, and on the west by Santa Cruz County. It contains nearly 700,000 acres, most of which is in a high state of cultivation, and held at prices which place it beyond the reach of the farmer of small means. The most beautiful farms in the state are to be seen here, surrounded by fruit trees of all descriptions, and well irrigated meadows (the water being procured from artesian wells); some of the most picturesque and charming homes in California are in this county. Wheat, hops, grapes and mulberry trees are among the varied products of Santa Clara. Land is as high as from $300 to $500 per acre. This county is famous for its medicinal springs, chief among which—as being the most valuable for its medicinal qualities as well as the most palatable—is the New Almaden Vichy Water. This water has attained a high reputation throughout the state, and is very generally recommended by the faculty. It possesses all the properties of the French Vichy Water, hence its name.

San José is the county seat of Santa Clara county. It is 50 miles distant from San Francisco. It is reached by railroad; fare $1 50.

SAN MATEO COUNTY.

San Mateo county embraces nearly the whole of the peninsula of San Francisco, which separates the bay from the Pacific Ocean. It is over thirty miles in length. It was organized in 1856, when it was separated from San Francisco, to which county it formerly belonged. It contains 154,908 acres, 140,000 of which are enclosed, 62,000 being under cultivation. The land is very fertile and produces large crops of grain, as well as immense quantities of fruit and vegetables. There are in this county a large number of private mansions, surrounded by beautiful gardens. The price of land is high. The chief resources are grain and lumber.

The county seat of San Mateo county is Redwood City, distant 28 miles from San Francisco, and connected with it by railroad three times a day. Stages run from here to Searsville and Woodside.

SAN FRANCISCO COUNTY.

To the immigrant in search of agricultural land it is useless to speak of San Francisco. The land in the vicinity of the city is generally cut up into market gardens, though there are some farms in the county, which are of course held at a high price.

ALAMEDA COUNTY.

Alameda county forms the eastern shore of San Francisco bay for about thirty-six miles ; it contains about eight hundred square miles, or 512,000 acres. Nearly 175,000 acres are enclosed, and 125,000 under cultivation. There are about 20,000 acres along the bay overflowed by the tide ; a company has recently been formed for their reclamation. Alameda creek, which runs through this county, supplies power for several grist and lumber mills. There is one railroad in this county; the San Francisco and Alameda railroad, opened August, 1865, commences at Woodstock, on the slough at the mouth of the San Leandro creek, where a wharf projects some distance into the bay, and extends to Haywards, sixteen miles east among the foot-hills of the Contra Costa mountains. This road will connect with the Western Pacific at Washington Corners, thirteen miles south of Haywards. The soil of the plains in this county, is generally black, sandy loam, resting on a substratum of sand and gravel, and is sufficiently moist to grow any description of fruit, vegetables, or grain, without irrigation. The soil everywhere in the county is very fertile. Land is generally held at a high figure, but small tracts of land may be obtained in the neighborhood of the old Mission of San José, at prices within the means of the farmer of moderate means.

San Leandro, a town of 500 inhabitants, is the county seat of Alameda county ; it is 18 miles from San Francisco, with which it is connected by ferry and railroad five times a day ; fare 50 cents.

CONTRA COSTA COUNTY.

This county is bounded on the north by the San Pablo and Suisun bays and the San Joaquin river ; on the east by the western channel of that river ; on the south by Alameda county, and on the west by the bay of San Francisco. It contains upwards of 500,000 acres, about 150,000 of which are good arable land ; nearly 100,000 acres are under cultivation. There are about 100,000 acres of swamp and overflowed land on the margin of Suisun bay, and along the banks of the San Joaquin river. Portions which have been reclaimed produce large crops of grain, fruit and vegetables. There are many good wagon roads in this county, connecting all parts of it with a market. Good agricultural land can be bought for from $15 to $25 per acre, though a large portion is held at much higher rates.

The county seat of Contra Costa county is Martinez, distant from San Francisco 31 miles, and connected with it by steamer to Benicia, and there by ferry. The fare is $1 25.

MARIN COUNTY.

Marin county is very hilly, but abounds in fertile valleys. It is one of the best dairy counties in the state, and produces more butter than any other; the annual product being about 1,500,000 pounds. It contains about 600 square miles, nearly 400,000 acres, 175,000 of which are enclosed, only about 25,000 acres being under cultivation, the remainder being used for pasturage. The owners of land in this county generally hold it at high prices; grazing farms in the hills may however be bought at a reasonable figure, and the profits on dairy products are so large that almost any farm will pay for itself and cost of stocking in two or three years.

San Rafael is the county seat of Marin county. It is 15 miles from San Francisco. The fare by ferry to San Quentin, and thence by stage, is $1 25.

SONOMA COUNTY.

Sonoma county is bounded on the north by Mendocino and Lake counties; on the east by Lake and Napa; and on the south, southwest and west by Marin County and the ocean. It contains about 850,000 acres, of which nearly 400,000 are inclosed, and 200,000 under cultivation. The climate of this county is extremely even and agreeable, and the soil is very fertile. In the valley of Russian river good crops of Indian corn may be grown without irrigation, this being one of the few valleys in this state where this cereal can be raised with facility. Bodega in this valley is famous for its yield of potatoes; 4,000 acres planted in 1867, produced 150,000 bushels. Sonoma county is famous for its vineyards; no less than 2,565,850 vines being grown within it limits. Much of the wine produced is made into Champagne, which is a very raw, crude article. Farms can be obtained in some portions of this county at moderate prices, but land generally, especially in the wine growing districts, is high.

The county seat of Sonoma county is Santa Rosa, a town of 1,800 inhabitants. It is 61 miles from San Francisco. It is connected by steamer twice a day to Petaluma—fare $1—and thence by stage, fare $2 50.

NAPA COUNTY.

Napa county contains about 450,000 acres, of which nearly one-half is valley and upland suitable for cultivation. Upwards of 200,000 acres were under cultivation in 1867. There is much rich land in this county which may still be bought at a low price, though the opening of roads of late has tended greatly to enhance the value of real estate. In the valley, farms are from $25 to $100 an acre. Napa is a great vine-growing county, about 1,000,000 vines being raised.

The value of real estate in this county has been much increased by the embellishments and improvements bestowed on Calistoga Springs, by Samuel Brannan, Esq. He has succeeded in making this delightful spot *the* fashionable watering-place of California. The springs are situated in a valley about twenty-six miles north of Napa City. They are connected by railroad with Vallejo. Mr. Brannan has built a fine hotel, a number of beautiful villa residences, and commodious stabling. The springs nearest the hotel have been enclosed in wooden tanks, and bathing houses have been erected over several of them. The greater portion of the valley in which these springs are located is owned by Mr. Brannan, who has spent over $100,000 in adorning it with shrubs and flowers. Calistoga Springs forms the summer resort of the fashionable world of San Francisco; and nothing has been left undone which can add to their comfort while staying there.

The county seat of Napa county is Napa City, which contains about 3,500 inhabitants. It is 44 miles from San Francisco, with which it is connected by steamer to Vallejo, and thence by railroad—fare $2. Stages run to Sonoma, 12 miles, fare $1.

AMADOR COUNTY.

This county is bounded by El Dorado on the north; Alpine on the east; Calaveras on the south, and San Joaquin and Sacramento on the west. It is fifty-two miles in length east and west, and its average breadth is ten miles. The chief business carried on here is mining. Situated among the lower foot-hills of Amador are some of the richest valleys in the state. There are many well cultivated farms and happy looking homes in this county. The price of land is not very high; improved farms may be bought at from $5 to $10 per acre.

The county seat of Amador county is Jackson, which has about 1,000 inhabitants. It is 181 miles from San Francisco. It may be reached by steamer to Sacramento, railroad to Latrobe, and thence by stage. The fare is $13 50.

ALPINE COUNTY.

This county is very mountainous, and the amount of land suited to agricultural purposes is too limited to make it worth the while of the immigrant from the Eastern states to proceed hither in search of a farm.

The county seat of Alpine county is Silver Mountain. It is 360 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Reno, stage to Carson, and thence by stage—fare $32 25. Stages run from this place to Big Trees, Murphy's and Stockton.

LAKE COUNTY.

Lake county is bounded on the north by Colusa and Mendocino; on the south by Napa and Sonoma; on the east by Colusa and Yolo, and on the west by Mendocino and Sonoma. It is about sixty miles in length, by fifteen miles in average width. The land under cultivation in 1867 exceeded 7,000 acres, from which, good crops of wheat, barley and vegetables, were raised. Good land is held at from $20 to $50 per acre. Clear Lake abounds in fish and wild fowl. There are many dairy farms in this county, and the cheese produced has a high reputation.

The county seat of Lake county is Lakeport. It is 117 miles from San Francisco. It is reached by steamer to Petaluma, stage to Cloverdale, and thence by stage. The fare is $7.

MENDOCINO COUNTY.

Mendocino county is bounded on the north by Humboldt; on the east by Colusa and Lake; on the south by Sonoma, and on the west by the Pacific ocean.

Its length is about eighty miles ; its average width about forty miles. It contains over 2,000,000 acres, of which 900,000 are fit for cultivation, and 200,000 are good grazing lands, the balance being composed of rugged hills and lofty mountains. At the close of 1867, there were 100,000 acres enclosed, of which 60,000 were under cultivation. The lumber trade in this county gives employment to one-half its population. There is in this county a considerable amount of land suited to agricultural purposes, still unclaimed and open to pre-emption. The scarcity of good roads is one cause why this rich county is still uninhabited. All descriptions of grain, fruit and vegetables can be raised. Much of the land open to pre-emption is covered with thick forests, the lumber from which will amply repay the settler for his labor. The country everywhere swarms with game of all descriptions, and delicious fish are caught in the streams and lakes. To the immigrant of small means this county offers tempting inducements, and the net-work of railways which is fast spreading over the state, must ere long be extended to this section. Corn, hemp and tobacco grow vigorously in the valleys. The forests supply abundant feed for hogs,which are raised in large numbers. Land, not far from Ukiah City, the county seat, which will soon be connected with Napa Valley by railroad, is cheap, the price of good improved farms varying from $5 to $20 per acre.

The county seat of Mendocino county is Ukiah, a town of 400 inhabitants. It is 128 miles from San Francisco. It is reached by steamer to Petaluma, stage to Cloverdale, and thence by stage ; the fare is $8 50.

NORTHERN COUNTIES.

HUMBOLDT COUNTY.

Humboldt county is bounded on the north by Klamath ; on the east by Trinity ; on the south by Mendocino, and on the west by the Pacific ocean. It is fifty-six miles long, north and south, and fifty miles wide ; containing 1,800,000 acres of land, of which about 500,000 are suited to agricultural and 300,000 to grazing purposes, there being about 5,000 acres of swamp or overflowed land near tide water. This latter will doubtless occupy the attention of the TIDE LAND RECLAMATION COMPANY, when it extends its sphere of operations. The land near the coast is covered with heavy forests of redwood, spruce and pine. The county abounds in bears, elk, and deer, and other game. Some of the valleys in this state produce seventy bushels of wheat, weighing sixty-one pounds to the bushel, to the acre ; and over one hundred bushels of oats, weighing forty-four pounds to the bushel ; this is not an unusual yield. Fifteen tons of potatoes to an acre is little over an average crop. The salmon fishery at the mouth of Eel river, is the most profitable in the state, the annual catch ranging from eleven hundred to three thousand barrels. Much of the land is well adapted for dairy farms. Good roads, connecting this county with the Sacramento valley, are being built. Land is very cheap, and extremely rich ; much is still open to pre-emption. This county offers great inducements to the immigrant, and will doubtless, within a short time be thickly settled.

The county seat of Humboldt county is Eureka, a town of 1,000 inhabitants. It is 223 miles from San Francisco. It may be reached by steamer to Petaluma, stage to Cloverdale, and thence by stage—fare $33 50. Or the traveler may take the steamer which leaves San Francisco twice a month, fare $12 50 steerage.

TRINITY COUNTY.

Trinity county is bounded on the north by Klamath and Siskiyou; on the east by Shasta and Tehama; on the south by Mendocino, and on the west by Humboldt. The county comprises 2,400 square miles, only ten or fifteen thousand acres being fit for farming land, three thousand five hundred acres of which were under cultivation in 1867. The chief industrial pursuit is gold mining in placer diggings.

The county seat of Trinity county is Weaverville, a town of about 1,000 inhabitants. It is 365 miles from San Francisco. It is reached by steamer to Sacramento, stage to Shasta, and thence by stage.

KLAMATH COUNTY.

Klamath is a mining county, only two or three thousand acres being under cultivation. There is much forest land however, which could be cleared and turned into farms.

Orleans Bar is the county seat of Klamath county. It is 548 miles from San Francisco. It is 65 miles west of Trinidad, the only port in the county which connects with San Francisco by means of schooners in the lumber trade. Stages from Yreka connect with others for all parts of this county.

DEL NORTE COUNTY.

Del Norte county is bounded by Oregon on the north; Siskiyou county on the east; Klamath county on the south; and the Pacific ocean on the west. It is about fifty miles long east and west, and thirty miles wide. It contains a number of small fertile valleys, and a large extent of rich prairies, together with three thousand five hundred acres of swamp and overflowed lands. The number of acres enclosed in 1867 amounted to 8,000, of which 3,500 were under cultivation, the most of it being planted with wheat, of which grain there were about 16,000 bushels raised. The county is well timbered with redwood, spruce, and pine. Fruit, grain and vegetables of all descriptions flourish here. Land for agricultural purposes can be purchased cheap.

The county seat of Del Norte county is Prescott City, which has a population of about 500. It is 280 miles from San Francisco, with which it is connected by steamer twice a month. The fare is $15 50, steerage.

SISKIYOU COUNTY.

This county is bounded on the north by Oregon; on the east by the State of Nevada; on the south by Lassen, Shasta and Trinity, and on the west by Klamath and Del Norte counties. Its length east and west is one hundred and sixty, and its width fifty-eight miles. It contains 5,300,000 acres, of which 250,000 is suited to agriculture. In the year 1867 there were about 50,000 acres enclosed, and 20,000 under cultivation. About 1,000,000 acres are covered by valuable forests, and about half as much more by several large lakes, of which Goose, Rhett and Wright are the principal. The principal agricultural lands in the county are located in Scott, Shasta and Surprise valleys. Grain, fruit and vegetables are grown in large quantities, wheat averaging twenty-five bushels per acre, and some fields turning out as high as forty-five. The county abounds in game of all kinds.

There is much good land open to pre-emption, and many improved farms are for sale at a low price.

The county seat of Siskiyou county is Yreka. It is 405 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Oroville, and thence by stage ; the fare is $39.

SHASTA COUNTY.

Shasta is bounded on the north by Siskiyou ; on the east by Suisun ; on the south by Plumas and Tehama, and on the west by Trinity county. The county is watered by the Sacramento river, and is one of the best irrigated counties in the State. The number of acres enclosed in 1867 was about 65,000, of which 35,000 were under cultivation. Ten thousand acres planted to wheat yielded 150,000 bushels ; 7,000 acres planted to barley, 190,000 ; and 2,000 planted to oats, 50,000. Fruit is produced in abundance ; the fig, pomegranate and almond thrive in the open air. Shasta has produced the best tobacco grown in the state. Large forests cover the northern and western portions of the county. This land is open for pre-emption, and when cleared will provide fertile farms for many immigrants. Hogs and sheep are raised in large numbers, and there are many fine dairy farms. While much of the land is held at high rates, farms can be obtained in many parts of the county at prices adapted to the farmer of small means.

The county seat of Shasta county is Shasta, which contains about 1,200 inhabitants. It is 274 miles from San Francisco. It is reached by steamer to Sacramento, and thence by stage—fare $22 50.

LASSEN COUNTY.

Lassen is bounded on the north by Siskiyou county ; on the east by the state of Nevada ; on the south by Sierra and Plumas, and on the west by Plumas and Shasta counties. Lassen county is chiefly rugged mountains, alkali flats, and arid sage plains, the only considerable body of good land in it being that lying along and adjacent to Suisun river, generally denominated Honey Lake Valley, with a narrow strip in Long Valley further south. Long Valley is a fine stock region, affording pasturage for thousands of head of cattle. Honey Lake Valley produces grain in abundance, and comprises some fine grazing land. The quantity of land suited for his purpose being so limited, we cannot recommmend the agriculturist to turn his attention to Lassen county.

The county seat of Lassen county is Susanville. It is 296 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Oroville, and thence by stage. The fare is $23.

CALAVERAS COUNTY.

This county is bounded by Amador on the northwest ; by Alpine on the northeast ; by Tuolumne on the southeast, and by Stanislaus and San Joaquin counties on the southwest. It has an average length of forty miles, with a width of about twenty. It is thickly wooded. Some of the forest lands, if cleared, would afford good farms to the agriculturist, and the number of good roads connecting the county with all parts of the state would afford him an opportunity of sending his produce to market. Good agricultural land is however, as a rule, scarce ; the county being more rich in mineral than farming lands. In 1867 there were about 70,000 acres of land enclosed, of which nearly one-half was under cultivation.

Farms suited to raising all kinds of grain, fruit and vegetables, may be obtained on the foot-hills and in the valleys at very moderate prices.

The county seat of Calaveras County is San Andreas, which is 152 miles from San Francisco. It is reached by steamer to Stockton, and thence by stage—fare, $9.

TUOLUMNE COUNTY.

This county has an average length of sixty, with a width of thirty-five miles. It lies between Calaveras and Alpine on the north, and Mariposa on the south; and between Mono on the east, and Stanislaus and Calaveras on the west. It is essentially a mining county, though there are many good farms, orchards and vineyards. In 1867 thirty-five thousand acres were enclosed, of which about twelve thousand were under cultivation. There are good roads, and the products of the farms find a ready market in the mining towns and camps east of the mountains.

The county seat of Tuolumne County is Sonora; a town of over 2,000 inhabitants. It is 173 miles from San Francisco. It is reached by steamer to Stockton, and thence by stage, *viâ* Chinese Camp. The fare is $12.

MARIPOSA COUNTY.

Mariposa is bounded by Tuolumne on the north; by Mono on the east; by Fresno on the south, and by Merced on the west. It measures sixty-five miles east and west, and about twenty-eight north and south. It is very mountainous, and contains but little good farming land. Of the twenty-five thousand acres enclosed in 1867, about eight thousand were under cultivation.

The county seat of Mariposa County is Mariposa. It has a population of about 1,000. It is 210 miles from San Francisco; whence it may be reached by steamer to Stockton, and thence by stage; fare, $14.

MONO COUNTY.

Mono county presents little or no inducement to the agriculturist, the climate being very severe and the amount of farming very limited.

The county seat of Mono County is Bridgeport, distant 289 miles from San Francisco. It is reached by steamer to Vallejo, and thence by railroad. The fare is $20.

INYO COUNTY.

This is a mining county. The greater portion is barren and unfit for cultivation.

The county seat of Inyo County is Independence, distant 452 miles from San Francisco. It is reached by railroad to Havilah, and thence by stage. The fare is about $50.

VALLEY COUNTIES.

TEHAMA COUNTY.

Tehama is bounded by Shasta on the north; Plumas and Butte on the east; Butte and Colusa on the south, and Mendocino and Trinity on the west. Its average length east and west is about seventy-eight miles, and its average breadth thirty-eight, giving a superficial area of nearly three thousand square miles. Much of it is well timbered, and it is well watered by creeks flowing from the mountains.

Tehama is a farming and stock raising county, and contains some of the best grain growing lands in the state. In 1867 there were 70,715 acres enclosed, of which 16,000 were under cultivation. There are more than half a million vines in the county. Indian corn flourishes. There is much good land in this county which can be purchased at a moderate price.

The county seat of Tehama County is Red Bluff, which has a population ot 2,500. It is 255 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Oroville, and thence by stage, *viâ* Chico. The fare is $20.

BUTTE COUNTY.

Butte is bounded on the northwest by Tehama ; on the northeast by Plumas ; on the southeast by Yuba ; on the south by Sutter, and on the west by Colusa county. Its extreme length north and south is a little over sixty, and its average breadth thirty-five miles. It is both a farming and mining county. It contains much rich bottom land along the Sacramento river. It is well watered everywhere. It has good roads and facilities for shipping produce to San Francisco, by the Sacramento river. The ordinary yield of the land is about thirty bushels of wheat, and forty-five of barley to the acre. Much fruit is raised, and there are many large vineyards in the county. An important product of this county is peanuts, which are grown in immense quantities by the Chinese. The farmer of small means need not despair of finding a farm suited to his means in this county ; and having once settled there, will be amply repaid for his outlay by the agreeable climate, rich soil, and ready market for his productions.

The county seat of Butte County is Oroville, a city of 1,500 inhabitants. It is 191 miles foom San Francisco. It is reached by steamer to Sacramento, and thence by railroad, *viâ* Marysville. The fare is $10 50.

COLUSA COUNTY.

Colusa is bounded by Tehama on the north ; Butte and Sutter on the east ; Yolo on the south, and Lake and Mendocino on the west. It is fifty-seven miles in length north and south, and forty-five miles in breadth. The western part, constituting about one-third of the county, being covered by the coast range, is hilly or mountainous ; the balance, consisting of rich alluvial, or less fertile prairie land, is nearly all level and well adapted to the growing of fruits and grain ; this being almost exclusively, an agricultural and stock raising county. Sheep and swine raising is pursued to a great extent. Rich tule lands, easy of reclamation, stretch for many miles along the sycamore slough, and other streams running into the Sacramento. They amount in the aggregate to about thirty thousand acres. Farms may be bought in this county at from $2 50 to $10 per acre.

The county seat of Colusa County is Colusa. It is 200 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Marysville, and thence by stage ; fare, $11.

SUTTER COUNTY.

This county is bounded on the north by Butte ; on the east by Yuba and Placer ; on the south by Sacramento and Yolo, and on the west by Yolo and Colusa counties. It is only about forty miles long by fifteen wide, and is, for its size, one of the most productive counties in the state. It is thoroughly cultivated, and all the products of California are raised in abundance. A person wishing to buy a farm in this county must have a long purse.

The county seat of Sutter County is Yuba City, 167 miles from San Francisco. It is reached by steamer to Sacramento, and thence by stage.

YUBA COUNTY.

Yuba is bounded on the north-west by Butte; on the east by Sierra and Nevada; on the South by Nevada, Placer and Sutter, and on the west by Sutter county. Its length measured northeast and southwest is fifty-seven, and its average width about eighteen miles. Part of it is still well timbered. The enclosed land amounts to about 135,000 acres, of which more than one-fourth is under cultivation. Wheat growing is the chief industry of the county, though immense quantities of fine fruit are produced. Land in this county is generally held at a high price.

Marysville is the county seat of Yuba County. It is a city of 6,000 inhabitants, distant 139 miles from San Francisco. It is reached by steamer to Vallejo, and thence by railroad, *viâ* Sacramento; fare, $8.

YOLO COUNTY.

Yolo is surrounded by the following counties, viz: Colusa, north; Sutter and Sacramento, east; Solano and Napa, south; Solano, Napa and Lake lying to the west. This is exclusivly an agricultural county; farming, dairying, stock-raising and fruit growing forming the sole occupation of the inhabitants. It is about sixty miles in length, and twelve in breadth. Every acre of it is settled on and held at a high price.

The county seat of Yolo County is Woodland, 107 miles from San Francisco, whence it is reached by steamer to Vallejo, railroad to Sacramento, and thence by stage. The fare is $6.

SOLANO COUNTY.

This county is about thirty miles in length, and twenty-eight in breadth. It is bounded on the north by Yolo; on the east by Yolo and Sacramento; on the south by Contra Costa county, the Bay of Suisun, and the Straits of Carquinez, and on the west by Napa county. This is one of the most wealthy, populous, and largely productive agricultural counties in California. Nearly all the inhabitants are employed in farming. There are large tracts of tule lands which may be reclaimed at a small expense, but with the exception of these there are but few lands in the county which offer to the agriculturist an opportunity to obtain a farm cheaply.

The county seat of Solano County is Fairfield, 50 miles from San Francisco. It is reached by steamer to Vallejo, and thence by railroad; fare, $3.

SACRAMENTO COUNTY.

Sacramento county is bounded on the north by Sutter and Placer; on the east by El Dorado and Amador; on the south by San Joaquin, and on the west by Solano and Yolo counties. Its average length measured north and south is thirty-six, and its width about thirty miles; giving it a superficial area of six hundred and ninety-one thousand, two hundred acres. There is scarcely an acre of land in this county which is not susceptible of cultivation. Stretching along the Sacramento river is a belt of tule land, which in some parts is fifteen miles in breadth. This land, which, when free from overflow, produces the largest crops of any in the state, we hope soon to see brought into cultivation, through the efforts of the TIDE LAND RECLAMATION COMPANY, which has already bought a large portion of it with that end in view. Though land in this county is deservedly held at a high figure, in consequence of its fertility, the ample facilities for bringing its products to a market, and other advantages, there are still many opportunities offered the immigrant in search of a farm to obtain possession of a tract of fertile land at a moderate price. Some months ago the Sacramento Farm Homestead Association was incorporated. This association having purchased a large tract of land in Sacramento county, offered it in 1,075 shares, of 40 acres each, at $500 per share, payable in installments of $10 per month, in gold coin, without interest. Frank McCoppin, Mayor of the City of San Francisco, is the President of this association, and among its trustees are some of the leading citizens of the same place. For full particulars concerning the organization and objects of the association, we refer our readers to an advertisement in another portion of this book.

The report of a committee sent by this association to examine the lands purchased was most satisfactory. It was received on May 3d. The committee reported that after a careful examination of the land in question, they found it admirably suited to the raising of grain, vegetables, fruit and vines. Water was procurable by boring about thirty feet. Land in the vicinity of the tract owned by this association, sells for from $20 to $25 per acre. We make the following extract from the report, as it will afford the intending settler an idea of the value of timbered lands.

"As to the timber, we find it spread over several thousand acres of land, and for this country, a good quality of white oak, with now and then groves of live oak. We asked of several persons what amount of timber they thought was on the Rancho. They differ very much, but the affidavits fix it at from 40,000 to 200,000 cords, the price of which they fix at from $2 to $3 per cord; we put it at $2 50, but the limited time would not enable us to make an estimate satisfactory to ourselves.

From Charles Crocker, Esq., Superintendent of the Pacific Railroad, we learn the probable cost of getting wood from the Rancho to Sacramento, and from others we learn the price of cutting the wood and hauling to the railroad, which is summed up thus: For cutting, per cord, $1 50; hauling, $1; and transportation, $1 43—making the cost $4 93 per cord; worth at market, $7 50; making the wood in the tree $2 57 per cord. The time on the railroad from the tract to Sacramento City, will be twenty-two minutes, table time; the price of fare each way will be ten to twelve cents. The matter has not been before the Trustees, but we can rely upon the opinion of Mr. Crocker."

The shares of this association were all taken up within a few days of its formation, and are now held at a premium. Other opportunities of obtaining farms on easy terms will doubtless occur, and the immigrant arriving in this state with the intention of buying a farm, should by no means overlook the advantages presented in Sacramento county.

The county seat of Sacramento County is Sacramento—the Capital city of the State—containing 20,000 inhabitants. Sacramento is reached by steamer to Vallejo, and thence by railroad; fare, $4, or by steamer direct, $1 50.

SAN JOAQUIN COUNTY.

San Joaquin is about forty miles in length, by thirty-five in width. It is bounded by Sacramento county on the north; by Amador, Calaveras and Stanislaus on the east; by Stanislaus on the south, and by Alameda and Contra Costa counties on the east. San Joaquin is almost exclusively an agricultural county. Of the 896,000 acres comprised within its limits, over three-fourths are capable of producing good crops of grain. There are 200,000 acres of tule land, which, when reclaimed, will add much to the wealth of this county. Every variety of fruit and vegetable is grown here. There is much rich land in this county which can be bought at from $2 50 to $10 per acre.

The county seat of San Joaquin County is Stockton, a city of $10,000 inhabitants. It is 110 miles from San Francisco, with which it connects by steamer daily; fare, $4.

STANISLAUS COUNTY.

Stanislaus county is forty-eight miles in length, and about twenty-six in breadth; containing 798,720 acres, of which a large proportion is rich farming land. A large belt of tule land, easily reclaimable, stretches along the San Joaquin river. A portion of this county is embraced in the great San Joaquin Valley, which is unexcelled in fertility by any portion of the State. All the products of California grow freely in Stanislausc ounty. Good land may be obtained at from $2 50 to $10 per acre.

The county seat of Stanislaus is Knight's Ferry. It is 167 miles from San Francisco. It is reached by steamer to Stockton, and thence by stage; fare $13.

MERCED COUNTY.

This county is bounded on the northwest by Stanislaus; on the northeast by Mariposa; on the southeast by Fresno, and on the southwest by Monterey county. It is about sixty miles in length east and west, with an average breadth of twenty miles, forming an area of 1,075,200 acres. The Merced and San Joaquin rivers run through it. In 1866 the amount of land enclosed was 84,550 acres, 13,968 of which were under cultivation. Grain, fruit and vegetables of all descriptions are produced, and large quantities of stock are raised. There is much good land in this county obtainable at a low price.

Snelling is the county seat of Merced County. It is 174 miles from San Francisco. It is reached by steamer to Stockton, and thence by stage. The fare is $11.

FRESNO COUNTY.

Fresno county is one hundred and twenty miles in length, with an average width of sixty-five miles; and contains 5,200,000 acres of pastoral, agricultural and mineral lands. It is bounded on the north by Merced and Mariposa; on the south by Tulare; and is flanked by the Sierras on the east, and the coast range on the west. The greater portion of this county is included in the fertile San Joaquin Valley. There are twenty thousand acres of tule land in this county, which are capable of reclamation, which will render them among the most valuable in the world. This county offers immense advantages to the intending settler, and will doubtless, ere long, be covered with the homes of a prosperous agricultural population. There is much rich land for sale and lease, on easy terms. A large tract between San Joaquin river, Fresno City and King's river, comprising some of the most fertile lands in the valley, has been by the San Joaquin Land Association divided into farms, which the immigrant can either lease on easy terms, or purchase at prices ranging from $2 50 to $10. This tract comprises some of the best wheat land in the state and the produce of a farm would in one or two years pay back to the purchaser the money he expended in obtaining possession of it. There are miles square of the richest land in California in the vicinity of King's river, and in fact, in all parts of this county. The completion of the railroad which it is proposed to construct through this valley, will quadruple the price of all land, and the opportunity at present offered, is one of which all wishing to purchase farms in this state should avail themselves.

The county seat of Fresno County is Millerton, 175 miles from San Francisco. It is reached by steamer to Stockton, stage to Hornitos, and thence by stage; fare, $19.

TULARE COUNTY.

Tulare county extends one hundred and thirty miles in a northwesterly and southeasterly direction, and has an average width of one hundred miles, giving it an area of eight million three hundred and three thousand acres. It is bounded on the north by Fresno, on the east by Inyo and San Bernardino, on the south by Los Angeles, and on the west by Santa Barbara and San Luis Obispo counties. Here are lands for all, a fertile soil, a delightful climate, and everything the heart of man can desire. Timber and water are abundant, and the woods provide for thousands of swine. Every description of grain, fruit and vegetables can be raised in profusion. Thousands of acres of swamp land await reclamation to become equal in fertility to the Delta of the Nile. Cattle thrive without housing or fodder, and sheep are raised in large numbers. In 1866 only 24,939 acres were enclosed, and 7,130 under cultivation. This leaves a large proportion of eight million three hundred and twenty thousand acres to the enterprising immigrant. The railroad which is shortly to run through this county will cause an influx of thousands of settlers, who will here make for themselves the most delightful homes in the world. To Tulare county the immigrant in search of land can direct his steps with the surety of meeting with what he wants. Much of the land is open for pre-emption and improved farms can be bought at very reasonable prices. All this will be changed when the railroad is built, and thousands will not then purchase the land which is now obtainable for nothing, or by the outlay of a few dollars.

The county seat of Tulare County is Visalia, which has a population of 1,500. It is 228 miles from San Francisco. It is reached by railroad to Gilroy, and thence by stage; fare, $24.

MOUNTAIN COUNTIES.

PLUMAS COUNTY.

Plumas county is bounded on the north by Shasta and Lassen counties; on the east by Lassen; on the south by Sierra and Yuba counties, and on the west by Butte and Tehama counties. It has an area of about two thousand square miles. This county is covered with forests of pine, and is one of the best timbered counties in the state. It contains many well-sheltered, fertile valleys, and much rich meadow land, suitable for agricultural and grazing purposes. A railroad, which is shortly to be carried through Beckworth's Pass, over the Sierra, will bring the products of the land within reach of a market. There are over one hundred thousand acres of land under fence, and planted to grain and vegetables. Land can be bought here at a low price, and the forest land is opened to pre-emption.

Quincy is the county seat of Plumas county. It is 276 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Oroville, and thence by stage via La Porte. The fare is $23 50.

SIERRA COUNTY.

This county is bounded by Plumas county on the north; the State of Nevada on the east; the county of Nevada on the south, and the counties of Yuba and Plumas on the west. This county in soil, climate and topography, much resembles Plumas county. Sierra county presents but few inducements to the farmer, there being but a very small amount of agricultural land within its limits, and the climate being excessively cold.

The county seat of Sierra county is Downieville, which has about 1,500 inhabitants. It is reached by steamer to Sacramento, railroad to Marysville, and thence by stage. The fare is $18.

NEVADA COUNTY.

Nevada county is bounded on the north by Yuba and Sierra counties; on the east by the State of Nevada; on the south by Placer, and on the west by Yuba county. It is sixty-five miles in length east and west, and fifteen in breadth; covering an area of about one thousand one hundred square miles. This county is very picturesque, having many rolling prairies, wooded mountains, and beautiful valleys. It is well timbered, and the forests abound in flowering shrubs. The soil on the uplands is of a rich ferruginous loam, that of the bottoms a dark vegetable alluvium, well adapted for the culture of fruit. Considerable quantities of grain are raised, and large portions of the land are devoted to the culture of the vine. The chief industrial interest of the county is quartz mining. Good farming land may be bought at a very moderate figure in many parts of the county, and a ready market obtained for agricultural products.

The county seat of Nevada county is Nevada City, which has a population of 5,000. It is 830 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Colfax, and thence by stage. The fare is $10 25.

PLACER COUNTY.

Placer county is bounded on the north by Yuba and Nevada counties; on the east by the state of Nevada, on the south by El Dorado and Sacramento, and on the west by Sutter and Nevada counties. It is eighty miles in length east and west, having an average width of but fourteen miles. Placer contains a good amount of agricultural land, its western part being wholly devoted to farming, sheep, hog and cattle raising. It is well timbered, and much of the forest land when cleared will be found well adapted to agricultural purposes. The chief industry of the county is mining, and here we must observe that in these mining counties the immigrant in search of a farm is most likely to find land unsettled, which he can pre-empt, or tracts which he can purchase at a nominal figure.

The county seat of Placer county is Auburn, which has 1,000 inhabitants; it is 156 miles from San Francisco. It is reached by steamer to Sacramento, and thence by railroad; the fare is $42.

EL DORADO COUNTY.

This county is bounded by Placer on the north; a portion of the state of Nevada and Alpine county on the east; Alpine and Amador counties on the south, and Sacramento and Placer on the west. Its length east and west is sixty miles, its width thirty miles. It has an area of nearly two thousand square miles. The inhabitants of this county are generally employed in mining and lumbering. Nearly all the cereals, fruits and vegetables are raised in the valleys and on the alluvial flats under cultivation. Nearly one-half this county would be adapted to agricultural purposes if cleared of timber. The immigrant in search of a farm can obtain one at a small expense—or for nothing—in Placer county by settling on a tract of timber land. The county abounds in good wagon roads and communication with all parts of the state is easy. The climate is pleasant, the soil fertile and large tracts are still open to the agriculturist in search of a farm.

Placerville is the county seat of El Dorado county. It is a city of 4,000 inhabitants. It is 180 miles from San Francisco. It is reached by steamer to Sacramento, railroad to Shingle Springs, and thence by stage. The fare is $10.

THE SAN JOAQUIN VALLEY.

In a work treating of the Agricultural Districts of California, a district of such importance as the great valley of the San Joaquin is entitled to a chapter by itself. This valley embraces portions of Kern, Tulare, Fresno, Merced, Stanislaus, San Joaquin, Mariposa, Calaveras, and Tuolumne Counties, and comprises about 9,000,000 acres of the richest agricultural lands in the State. Within its limits are 1,000,000 acres of salt marsh and tule lands, which, when reclaimed, will prove the most fertile land in the world; its resources being almost inexhaustible. The valley is in the shape of a parallelogram, having an extent of 250 miles in length; its greatest width at any point is 140 miles. The climate is pleasant and invigorating. An immense variety of productions may be raised in different parts of this valley. Grapes and fruits of all descriptions grow in remarkable profusion. Mulberries for silk-growing are raised; portions are well adapted for the cultivation of the tea plant, and rice could be grown with profit in many sections. The cultivation of the sugar beet, which in this valley attains gigantic proportions, would in the course of a few years ensure a fortune to any one who would engage in it on a large scale. The great wealth of the valley, however, consists in its cereal grains. Wild oats are indigenous to the soil, and are cut when green, for hay. A fine quality of barley is raised. The wheat is the best in the world, and every known variety flourishes. Vegetables of all kinds are produced in large quantities, and of immense size. Experiments made in cotton growing prove that California—if her citizens turn their attention to the raising of this staple—can produce sufficient to supply the requirements of home consumption. Many of the bottom lands of the San Joaquin River and Tulare Lake are well adapted for the raising of tobacco. Bees thrive in the valley, and large quantities of honey are produced. The facilities for communication with a market are good. Well constructed roads lead from Stockton to all parts of the valley. A railroad has been already commenced, and will soon be completed through the entire length of the valley. The sloughs and tributaries of the San Joaquin river are traversed by stern wheel steamers of light draft, to the present head of navigation. Flat bottomed boats of 100 tons burden, pass up the San Joaquin through the centres of

Stanislaus, Merced and into the heart of Fresno county, a distance of 275 miles from Stockton, for eight months in the year. No lands in the State offer greater inducements to those desirous of securing farms, and the advantages they possess—accessibility, evenness of climate, variety of products, facility of culture, etc.—are so great that we confidently recommend the immigrant arriving in this State, with a desire to engage in agriculture, to turn his attention to the great valley of San Joaquin. These lands are in the hands of private owners, who, for the most part, are willing to sell in tracts to suit small farmers, and at a reasonable price. A large quantity of land in the richest and best watered portion of the valley is offered for sale by John T. Little, Esq., No. 1 Stevenson's Building, southwest corner of California and Montgomery streets, San Francisco. This he offers in lots of from one-half section upward, at moderate prices and on liberal credit. Mr. Little's land comprises some of the richest wheat land in the State. One tract is situated in Merced County, between the Merced and Mariposa rivers; another in the neighborhood of Berendo Slough; and still another large tract in Fresno County, watered by the Fresno River and Cottonwood Creek. All this land is within easy access of a market by water and land communication, and wheat can be transported to San Francisco at $3 per ton. The Stockton and Tulare Railroad, by Visalia, is now in course of construction, and will, when completed, afford great facilities to all the inhabitants of the Valley in sending the products of their land to market. The line will be adjacent to a portion of the land offered for sale by Mr. Little. On its completion, land which can now be obtained for from $5 to $10 per acre, will advance to $40 or $50.

THE SWAMP AND TULE LANDS.

Among all the agricultural lands of California, there are none so rich and productive as the Swamp Lands. The State comprises 5,000,000 acres of swamp and overflowed "tule" land, which only needs reclamation by means of ditches and levees, to render it the most fertile soil in the world.

The productiveness of the lands overflowed by the Nile is known to every one; these California lands equal them in fertility. For centuries they have received annually vast deposits of vegetable matter, which have formed a rich black loamy soil, of from twenty to thirty feet in depth. The marshes in England, which have been drained at immense expense, have been found within a few years to pay for the outlay. In Holland the reclamation of swamp lands has been carried to a great extent; and so profitable has the enterprize been found, in consequence of the richness of the lands so reclaimed, that it is now in contemplation to pump out the waters of the Zuyder Zee, and apply its bed to agricultural purposes. The expense of this undertaking will be fabulous, but its projectors are confident of a large profit on their investment.

No such gigantic labor as this is required to reclaim the Swamp Lands of California; no thousands of miles of pipe for drainage, as in the case of the marshes of England; no costly engines, as in Holland. All that is needed, in most cases, is a levee, the cost of which can be defrayed by a tax on the land of from $3 to $5 per acre.

By a law passed by the Legislature some years since, any citizen, or man intending to become a citizen, can procure these lands by paying to the State twenty cents per acre, (the price of the land being one dollar per acre) and 7 per cent. per annum interest upon the balance of eighty cents.

This land derives its name of "tule" land from being covered with a species of rush of that name, which grows to the height of from eight to fifteen feet. The root of the tule is succulent and nourishing, and affords good food for hogs, which speedily grow fat on it. But little attention was paid to this description of land until about a year ago, when the settlers on Sherman Island set seriously to work to protect their land from overflow, by the erection of a perfect system of levees. At this time the land was valued at about $1.20 per acre. After considerable opposition, all the settlers were brought to consent to an assessment of five dollars per acre on their land, and the work commenced. Most of the labor was performed by Chinamen; it is now fully completed. Sherman Island is entirely protected from overflow, and by means of flood-gates the land can be irrigated during the dry season. This island lies between the Sacramento and San Joaquin Rivers, the lower portion being at the junction of the Sacramento River and Suisun Bay, and the upper end about two miles below Rio Vista, and Antioch on the San Joaquin, and Collinsville on the Sacramento, which are directly opposite the island. It is about twelve miles long and three miles wide, and contains 14,000 acres of land. The fertility of the soil is astonishing; it has yielded to the acre sixty-seven bushels of wheat, one hundred and ten bushels of barley, nineteen thousand pounds of Irish potatoes, and eight thousand pounds of clover and timothy hay at one cutting. It produces in the greatest abundance all kinds of fruits and vegetables; the sugar beet here grows to larger proportions than in any other part of the State. Two crops per year are raised of wheat, barley and hay. The fertility of the soil is inexhaustible. There are thousands of acres of land in the State, which only need reclamation to become equally as valuable as Sherman Island. The land which last year was valued at $1 25 per acre, this year sells at $25 to $30.

The great work of reclaiming and bringing into cultivation the Swamp Lands would, if it were left to individuals, be long ere it was accomplished; therefore we are glad to record the incorporation of a company entitled "THE TIDE LAND RECLAMATION COMPANY, which will immediately proceed in this work. This Company comprises many public-spirited individuals of large capital, who will see to it that the enterprise is pushed to completion.

It is the intention of this Company, having the general prosperity of the State as well as its own private interests in view, to purchase large tracts of swamp lands, reclaim them, and then divide them into small farms, which they will dispose of at reasonable prices to those desirous of engaging in agricultural pursuits. They have already purchased one hundred thousand acres of land situated on the lower San Joaquin River, and about twenty thousand on the lower Sacramento. This land is adjacent to and of precisely the same description as Sherman Island.

A line drawn from the head of Steamboat slough on the Sacramento river, and Stockton on the San Joaquin, extending to salt tide at the junction of the two rivers below Sherman Island, will include the most valuable tule lands. The daily action of the tide, which ranges from 4 to 6 feet within the above limits, renders the problem of drainage easy of solution, and provides ample means of irrigation if required. The TIDE LAND RECLAMATION COMPANY will confine themselves to the reclamation of these lands for the present. This undertaking will not require an outlay of more than from $3 to $5 per acre.

It is supposed, and indeed has been almost proved, that the tule lands of the Sacramento River are as well adapted to the raising of rice as is Carolina. We annually import this staple to the value of one million dollars, and it is computed that sufficient can be grown in the State to supply the needs of home consumption.

It is needless to pile proof upon proof of the immense value of swamp lands. We might instance the reclaimed swamps of Louisiana, the marshes of the Tiber, and hundreds of other rich spoils wrested from the sea. In the fertility of Sherman Island we have sufficient evidence, and all must wish THE TIDE LAND RECLAMATION COMPANY God-speed in their great work, which will add so much to the wealth of our State.

Since Sherman Island has been reclaimed, some San Francisco capitalists have bought Grizzly Island, at the extreme north end of Suisun Bay. The island contains about 13,000 acres. It is estimated that it can be fully protected from overflow by a levee three feet in height. Chinamen are employed in building it, at $30 per month, finding themselves, or by contract at 30 cents per cubic yard.

Swamp or "tule" lands are found in all parts of the State, and in most instances can be reclaimed with but little outlay. Sutter County contains a large tract of tule land; Yolo about an equal quantity. In Solano County there are about 90,000 acres of tule lands, some of which have been reclaimed. The tule lands of Sacramento County are of great extent, and are perhaps the richest in the State. In San Joaquin County, there are 200,000 acres. Stanislaus County has a belt a mile or two wide, reaching the whole extent of the San Joaquin River, which runs through it; this land is easily reclaimed. Fresno County contains 20,000 acres, all capable of reclamation at small expense. San Mateo contains a large tract of salt marsh. In Kern County there is a large amount of swamp land. Alameda has 20,000 acres of land overflowed by the tide. It is intended very shortly to reclaim this land. In Contra Costa there are 100,000 acres of overflowed land on Suisun Bay and the San Joaquin River. Marin County comprises about 12,000 acres of swamp and overflowed land on the margin of San Pablo Bay. Humboldt County has about 5,000 acres of swamp near tide water. In Colusa there are 3,000 acres of tule land, which can be easily reclaimed. We have stated above that there are 5,000,000 acres of tule land in the State, but it must not be supposed that even one-tenth part of this land possesses the advantages presented by that situate on the Sacramento River, on which the TIDE LAND RECLAMATION COMPANY have commenced operations. Of this exceptionably rich land there are about 300,000 acres, of which a large proportion has been purchased by the company.

In no part of California need the reclamation of swamp lands be attended with any great expense, and those investing in these lands may do so with a fair expectation that the profits they derive from their first year's crops will repay them for their outlay. Chinese labor is abundant and cheap, and there is no reason why, within the next ten years, every acre of the now overflowed land of California should not be reclaimed and brought under cultivation. To THE TIDE LAND RECLAMATION COMPANY we must chiefly look to accomplish this work, and to turn these now valueless lands into farms for the immigrant. They start with a capital of $12,000,000; and as much more as would be necessary to reclaim all the swamp lands in the State within a year, would, if required, be forthcoming.

We cannot too much impress on the mind of the immigrant the value and importance of this description of land, but trust that from the foregoing statement of facts he will be able to grasp and appreciate it.

SCHOOL LANDS.

Information as to the means necessary to be taken in order to acquire possession of public lands, is given in another portion of this work. The following information concerning the school lands in this state and the terms on which they may be obtained, will be found useful by the intending settler. The unsold portion of the 500,000 acres granted to the State for school purposes; the unsold portions of of the seventy-two sections granted to the State for public buildings; the sixteenth and thirty-sixth sections granted for school purposes and lands selected in lieu thereof, are sold for $1 25 per acre in gold coin payable twenty per cent. of principal within fifty days from date of certificate of purchase, the rest bearing interest of ten per cent. per annum in advance; the remainder of the principal to be paid within one year from the time the Legislature may require, or before, if the purchaser wishes to do so.

Whenever any person desires to purchase less than forty acres of a sixteenth or thirty-sixth section of a township which has been surveyed by the United States, such person must make affidavit before an authorized officer that he is a citizen of the United States, or has filed his intention of becoming such; is a resident of the State, of lawful age; that he or she desires to purchase such lands (describing the same). If the applicant should be a female, she must state that she is entitled to purchase and hold real estate in her own name.

Lands open to private entry are simply lands formerly and in form offered for public sale at Government instance. The land at the time not being disposed of, remains now subject to private entry. This land, and there is plenty of the same all over the State, can be had at the small sum of $1 25, and that in greenbacks, which would give a large farm for a mere trifle to any one enterprising enough to secure it. To those, however, who may be desirous of securing to themselves the glorious boon of independence, it is only necessary to pay some attention to the facts we have set forth. All necessary information can be obtained at the respective Land Offices throughout the State. There are six Land Offices; one at San Francisco, one at Sacramento, one at Stockton, one at Marysville, one at Visalia, and the last one at Humboldt.

In San Francisco the general Land Office is on Jackson street, above Montgomery, for the State lands. There is some difference in the respective value of public lands. Lands belonging to the State are worth one dollar and twenty-five cents in gold, while those belonging to the general government are worth but one dollar and twenty-five cents in greenbacks.

While there is still much land in the state open to pre-emption, the intending settler arriving in California will find many difficulties attending obtaining possession of it, and will, probably, if he attempts to transact the business unaided, lose much time which he might more profitably employ. Under existing circumstances we cannot offer better advice to the immigrant who wishes to pre-empt a farm in this State, than to bid him go direct to Leander Ransom, the State Locating Agent for School Lands, at the southwest corner of Montgomery and Jackson Streets, where by paying moderate fees he can obtain full information as to the unlocated land in the State, and be placed in possession of a farm with little trouble and expense. Those unaccustomed to the intricacies of the Land Office will find themselves so surrounded with difficulties in attempting to transact this business for themselves, that the course we counsel is the most direct and economical.

CLIMATE, ETC.

We have perhaps laid too little stress upon the great suitability of the climate of California to agricultural operations. The farmer in California can work nearly all the year ; he can commence ploughing and sowing with the first rains in the fall—about November—and continue until January. From that time until the middle of April he can summer-fallow; then haying commences and lasts until the end of June, and the succeeding five months are devoted to harvesting the crops. This over, he can put in his summer fallow, and volunteer and be prepared for winter ploughing at the commencement of the rains. Of course the farmer is interested in knowing what amount of rain falls, and the month in which it may be expected ; we therefore give the following table exhibiting the rain guage at San Francisco, as recorded by Thomas Tennent.

	1853.		1854.		1855.		1856.		1857.	
	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.
July........	....	......	....	......	....	......	.02	1	....	.... .
August..........	.04	1	.01	1	....	......	....	......	.05	2
September	.46	4	.15	3	....	.....	.07	2	....	......
October....	.12	2	2.41	9	....	......	.45	5	.93	3
November........	2 28	12	.34	2	.67	7	2.79	9	3.01	11
December........	2.32	11	.81	3	5.76	15	3.75	12	4.14	8
	1854.		1855.		1856.		1857.		1858.	
January.	3.88	10	3.67	11	9.4	13	2.45	7	4 36	8
February.........	8.04	16	4.77	10	0.50	4	8.59	15	1.83	8
March............	3.51	11	4.64	12	1.60	5	1.62	6	5.55	8
April............	3.12	9	5.00	10	2.94	6	....	......	1.55	4
May.........	.02	1	1.88	6	.76	3	.02	3	.31	3
June.............	.08	2	....	......	.03	1	.12	1	.05	1
Totals...........	23.87	79	24.68	67	21.66	54	19.88	61	21.81	56

	1858.		1859.		1860.		1961.		1862.	
	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.
July..............	.05	2	....	......	.21	1	....	......	....	... ..
August...........	.16	2	.02	1	....	......	....	......	....	......
September........	....	......	.03	1	....	......	.02	1	....	.... .
October...........	2.74	4	.05	1	.91	12	....	......	.40	2
November........	.69	5	7.28	15	.58	3	4.10	12	.15	3
December........	6.14	14	1.57	6	6.16	21	9.54	16	2.35	9
	1859.		1860.		1861.		1852.		1863.	
January..........	1.28	4	1.64	8	2.47	8	24.36	18	3.63	9
February.........	6.32	18	1.60	7	3.72	8	7.53	10	3.19	10
March............	3.02	11	3.99	13	4.08	8	2.20	11	2.05	8
April............	.27	4	3.14	8	.51	4	.73	9	1.61	9
May..............	1 55	4	2.86	11	1.00	3	.74	5	.23	2
June.........	....	......	.09	2	.08	2	.05	1	....	......
Totals..........	22.22	68	22.27	73	19.72	70	49.27	83	13.62	52

	1863.		1864.		1865.		1866.		1867.	
	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.	Quant.	Days.
July	....	......	....	......	....	......	....	......	....	......
August	....	......	.21	3	....	......	....	......	....	......
September	.03	1	.01	1	.24	2	.11	2	.04	1
October	....	......	.13	3	.26	4	....	......	.20	1
November	2.55	5	6.68	8	4.19	10	3.35	12	3.41	6
December	1.80	8	8.91	18	.58	8	15.16	18	10.69	18
	1864.		1865.		1866.		1867.		1868.	
January	1.83		5.14	9	10.88	16	5.16	15	9.50	17
February	....	......	1.34	8	2.12	9	7.20	9	6.13	9
March	1 52	9	.74	4	3.04	12	1 58	7	6.30	12
April	1.57	4	.94	3	.12	1	2.36	8	2.31	9
May	.78	5	.63	2	1.46	6	....	......	.03	2
June	....	......	....	......	.04	1	....	......	.22	1
Totals	10.08	37	24.73	59	22.93	69	34.92	71	38.83	76

The average annual rain-fall from the season of 1849–50, up to 1867–68, inclusive, is 24.33 inches.

Very nearly the same quantity falls in the valleys surrounding the bay of San Francisco, and also in the Sacramento Valley. The fall in Sonoma and Napa counties is rather greater, and in Santa Clara rather less. The rain-fall in the Southern counties is not not more than one-half of that of San Francisco. One feature that strikes the new-comer to California very strangely is the great disparity in temperature found in different portions of the State in summer, and to a less but yet decided degree in winter. While the inhabitants of San Francisco are visited from May to October with strong northwest winds and chilled with wet fogs so that woolen clothing is universally used, less than one hundred miles distant in the interior valleys and plains the lightest summer clothing is all that can be comfortably borne. The temperature of the interior valleys from May to October averages about ninety degrees Fahrenheit during the day, but the heat is so devoid of moisture that it can be borne with less unpleasantness or distress than a much less degree of warmth in the Mississippi Valley or Atlantic States. The general health of the inhabitants is good, being free from dangerous epidemics, the most severe being intermittent fevers and chills and ague, which are sometimes prevalent in unfavorable localities just before the breaking up of summer. Thunder and lightning is of extreme rarity in California, but in its absence a very large amount of latent electricity prevails in the air, which is claimed to be of great benefit to health. Owing to the absence of frost, fresh vegetables are in the market all the year round. New potatoes frequently make their appearance in March. The climate is very favorable to fruit; cherries begin to appear about the middle of May, and are found in the market until the end of July. Strawberries come in about April, but when the winter is mild are exposed for sale all the year round. All sorts of fruit may be dried with little care or attention, the absence of dews rendering no covering at night necessary.

That the Eastern farmer designing to emigrate to this State may have exact information as to the producing powers of the soil of California in the single article of grain we append the following official report of the County Assessors of the several Counties for 1867, the reports for 1868 not having yet been given in.

TABLE

Exhibiting the Number of Acres of Land Inclosed and under Cultivation in California, during the year 1867, *with the amount of Wheat, Barley and Oats, raised thereon.*

COUNTIES.	Acres Inclosed.	Acres Cultivated.	WHEAT.		BARLEY.		OATS.	
			Acres.	Bushels.	Acres.	Bushels.	Acres.	Bushels.
Alameda	125,581	90,666	59,801	1,322,454	14,751	475,702	2,583	54 906
Alpine	13,000	500	75	1,000	200	3,000	45	470
Amador	60,700	18.050	2,654	50,000	3,280	69,560	66	....
Butte	210,664	42,966	20,630	482,470	10,422	220,350	456	10,707
Calaveras	38,000	11,750	210	2,550	1.460	6,400	....	....
Colusa	128,760	52,315	25 300	708,400	25,000	875,000	200	7,000
Contra Costa	82,157	52,314	39,859	692,480	10,106	287,120	611	22,158
Del Norte	4,860	1,978	411	9,982	158	6,210	445	18,661
El Dorado	82,996	15,520	943	6,278	534	7,000	203	890
Fresno	8,673	4,000	375	7,457	570	15.755	....	....
Humboldt	28,408	12,127	1,342	32,314	387	16,254	3,698	165,472
Inyo	3,500	2,080	343	8,090	378	9,747	55	368
Kern	3,750	2,400	200	5,217	883	24,893	60	1,800
Klamath	3,201	1,500	62	1,080	15	240	45	950
Lake	11.030	8,730	4,169	62,299	1,917	24,362	232	3,873
Lassen	13,371	3,691	622	8,563	2,558	66,798	469	11,385
Los Angeles	17,300	15,000	800	19.200	4,400	154,000	....	....
Marin	181,465	33,257	3,936	102,240	1,278	38,246	12,460	513,678
Mariposa	24,999	4,084	1,235	5,309	2,344	7,816	261	372
Mendocino	135.000	46,000	15,600	200,840	4,340	127,500	10,800	34,000
Merced	135,000	20,000	3,000	45,000	5,080	125,000	....	....
Mono	11,720	2,495	393	7,268	408	7,560	163	2,805
Monterey	118,490	40,450	5,700	226,750	27,500	1,723,200	150	5,700
Napa	95,200	41,100	37,410	592,323	1,750	53,000	1,045	32,440
Nevada	58,575	23,250	675	12,000	100	2,000	....	....
Placer	73,550	21,000	8,170	65,300	2,705	23,400	760	1.300
Plumas	45,632	2,200	951	14,541	62	1,990	979	29,965
Sacramento	210,148	75,274	8,852	131,000	18,600	375.000	1,550	31,000
San Bernardino	14,642	12,000	2,500	50,000	6,000	120,000	9	130
San Diego	2,300	1,950	400	8,000	1,270	31,750	....	....
San Francisco	18,500	3,200	20	500	300	5,000	600	3,500
San Joaquin	268,000	126,000	91,800	1,197,400	30,700	429.800	7	260
San Luis Obispo	43,085	3,623	1,210	11,210	735	30,400	30	....
San Mateo *	150,000	80,000	20,000	420,000	8,600	258,000	5,100	203,000
Santa Barbara	16,244	7,200	1,500	1,200	2,200	6,800	150	....
Santa Clara	467,931	125,740	80,339	1,229,309	9,210	170,400	500	5,800
Santa Cruz	50,785	17,405	7,039	166.676	1,997	62,680	719	24,826
Shasta	59,480	33,621	7,421	86,429	7,325	187,215	1,244	11,460
Sierra	13,920	1,495	206	3.780	365	8,845	220	7,200
Siskiyou	63,052	18,424	6,321	126,420	2,234	66,920	3,004	99,120
Solano	192,988	76,739	61,329	1,454,830	13,605	348,980	400	9,500
Sonoma	446,963	246,063	123,814	1,079,181	15,405	279,156	10,850	274,932
Stanislaus	120,594	200,456	144,852	2,317,632	42,748	854,960	....	....
Sutter	112,619	93,734	31,585	287,167	29.636	431,461	239	5.615
Tehama	79,515	26,816	14,520	300.000	7,213	15,100	76	2,850
Trinity	10,926	3,753	960	11,370	108	1,487	107	2,025
Tulare	15,681	5,310	2,336	39,884	3,757	65,584	27	550
Tuolumne	40,110	13,600	1,950	19,600	3,550	18,500	25	245
Yolo*	161,748	87,471	47,705	1,446,579	26,408	867,690	830	10,000
Yuba	58,842	22,613	7,193	143,000	6,200	150,300	700	20,650
Totals	4,363,655	1,851,930	898,709	15,222,572	360,672	9,158,131	62,173	1,622,56

* Returns of 1866.

From the amount of land brought into cultivation since the above estimates were made we may reasonably expect that the returns of 1868 will show in many counties a product of nearly double the amount given above.

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At a meeting of the stockholders, a committee of three, consisting of the following gentlemen, —Herman Cordes. of Feldman & Co.; Emeric Saillot, farmer; H. S. Hawxhurst, farmer;—were selected to examine the land and report to the Trustees, and whose report is, in substance, as follows:

Gentlemen,—Your committee selected to view and examine the nature, quality, and general character of the 50,000 acres of land offered by the Association in Homestead Farms, of 160 acres to the share, respectfully report:

On leaving Stockton, we took in our line of travel the San Joaquin Valley to the foot or north end of Tulare Lake; thence up the west side of the same to Township No. 26 south, Range 20 east. We found these lands level, and of fine quality. Township No. 27 south, Range Nos. 20 and 21 east, of the same character; all of which could be ploughed in a body, if desired. It is our opinion that both of these townships can be irrigated, if necessary, at a small expense.

Your committee paid particular attention to the general quality of these lands, their adaptability for grain growing, as also their capacity for producing such crops as the settler and farmer usually desire, and came to the conclusion that in all respects they are fully equal to the best farming lands in the San Joaquin and other Valleys through which we passed. They are covered with a natural grass, called Alfilarea, which is well adapted for stock. The soil is a deep and sandy loam, easily worked, and retaining moisture.

In conclusion, we recommend them as in all respects desirable for grain growing, stock raising, or any purpose to which the farmer might desire to put them.

Subscribed and sworn to before F. J. THIBAULT, Notary Public.

A detailed Report of the committee, with Lithograph Map of the Lands, and By-Laws of the Association, can be obtained at the office of the Secretary, **Northeast corner of Battery and Sacramento Streets,** where the books of subscription are now open.

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SAN FRANCISCO, CAL.

SOLE AGENTS FOR FOUGERA'S PREPARATIONS,
GOSSNELL'S TOILET ARTICLES AND BRUSHES,
FLORENCE HAIR BRUSHDS AND MIRRORS,
LUBIN'S, PINAUD'S AND VIOLETS TOILET ARTICLES AND PERFUMERY,
AYER'S HAIR VIGOR, KNOWLES' HAIR RESTORER,
IREDELL'S COLD PRESSED FLUID EXTRACTS,
HEGEMAN'S CELEBRATED FLORIDA WATER,
HEGEMAN'S ESSENCE JAMAICA GINGER.

P. P. P. P.

We have on hand at all times, a full supoly of FRESH HERBS AND CHEMICALL, all kinds of PATENT MEDICINES, and a complete assortment of fine TOILET ARTICLES. We also make a specialty of IMPORTED EUROPEAN GOODS.

With such advantages as we have, we feel assured we can give entire satisfaction to all that will be kind enough to favor us with their orders.

ATSHA CANNA.

(GOOD FOOD.)

This food has been introduced of late into the French and English Hospitals and Foundlings Institutions, as the very best food for children and invalids ever discovered. It is of easy digestion, readily assimilated, and therefore as a blood generator superior to any other food, and is found invaluable in the Creche (Foundling House) of Paris as a substitute for mother's milk. Physicians of the highest standing in Europe are recommending it in cases where nursing is not compatible with the health of the child or the mother, as well as in cases of dysentery, chronic diarrhœa, dyspepsia, vomiting, and irritation of the stomach during dentition; finally, in all cases where, in cousequence of gastric or intestinal disorder, all other food is rejected or not digested, thus producing loss of flesh and strength. When the Infant grows pale, languid and restless, and does not care for the breast, it will readily take to this nourishment.

In cases where the mother is unable to nurse, and a wet nurse is not to be had, the ATSHA CANNA is the only food that may be depended upon as capable of raising the child to full growth, while, at the same time, it will strengthen it to pass the process of teething without danger. As an aliment for sick and convalescent people, it surpasses anything that has been recommended heretofore. Under its nourishing and tonic influence. the convalescing child or grown person will rapidly gain in flesh and strength until all traces of the previous disorder have vanished.

We refrain altogether from puffing the article, and merely wish to draw the attention of mothers, and more especially of gentlemen of the medical faculty, to this long needed and sought for aliment.

To be had at all respectable Drug Stores.

HEATHFIELD, BOCEL & CO.
206 and 208 Battery Street,
Wholesale Agents.

Jas. G. Steele & Co.

THE GREAT

RETAIL DRUG HOUSE

OF THE

PACIFIC COAST,

Offer for sale by recent arrivals from the East and Europe, a full assortment of

Drugs, Chemicals,

PERFUMERY,

FANCY GOODS, ETC., ETC.

These Goods are new and fresh, of the best quality, and will be sold at very low prices
Please call and examine the stock before purchasing elsewhere.

Physicians' Prescriptions Compounded with Great Care and Accuracy

None but the best articles used in the preparation.

PRICES MODERATE.

Manufacturers of Steele's Proprietary Preparations and Standard Family Medicines

Physicians, Traders and Farmers will bear in mind that STEELE & CO., possess unusual facilities for filling and sending into the country all orders for Medicines, Perfumery, Articles for the Toilet, etc., which may be intrusted to their care. An experience of over fifteen years in the business warrants them in asserting that perfect satisfaction will always be given.

☞Articles not in our line purchased and sent at the usual market rates.

JAS. G. STEELE & CO.

No. 521 Montgomery Street,
San Francisco.

Pacific Mail Steamship Co.

FROM NEW YORK TO CHINA,

Via Panama and San Francisco.

One of the following first-class steamers leaves New York on the **1st, 9th, 16th** and **24th** of each month:

Alaska..4,000 tons; **Arizona**..3,000 tons; **Henry Chauncey**..3,000 tons; **Rising Star**....3,000 tons; **Ocean Queen**....3,000 tons.

One of the following first-class steamers leaves San Francisco for Panama on the **6th, 14th, 22d,** and **30th** of each month.

Constitution.4,000 tons; **Golden City**.4,000 tons; **Sacramento**.3,000 tons **Montana**....3,000 tons; **Golden Age**....2,500.

One of the following first-class steamers leaves San Francisco on or about the **4th** of each month for Hongkong:

Great Republic....4,000 tons; **China**....4,000 tons; **Japan**....4,000 tons; **Colorado**....4,000 tons.

The following steamers are kept in reserve at Yokohama, to perform the Shanghai service, or to take the place of regular steamers in case of accident:

New York..2,500 tons; **Costa Rica**..2,000 tons; **Hermann**..1,800 tons.

Through Time from New York to San Francisco (Schedule)................22 days.
" " " San Francisco to New York............................20 days.
" " " San Francisco to Yokohama. 22 days; and Hongkong, 29 days.
" " " Hongkong to Yokohama, 7 days; and San Francisco, 27 days.

ALLAN McLANE, Pres't, New Y'k
F. R. BABY, Agent, New York.
WM. RATHBUN, Agent, Aspinwall.
D. M. CORWINE, Agent, Panama.
T. A. HARRIS, Agent, Acapulco.

OLIVER ELDRIDGE, Ag't S. F.
S. L. PHELPS, Agent, Yokohama.
GEO. B. GIBBONS, Ass't Agent, Yokohama.
GEO. F. BOWMAN, Agent, Hongkong.
RUSSELL & CO., Agents, Shanghai.

CHARLES D. CARTER,

REAL ESTATE AGENT,

410 CALIFORNIA STREET,

Two Doors West of the Bank of California.

EVERY DEPARTMENT OF REAL ESTATE BUSINESS ATTENDED TO.

Full Maps, Books, Charts, Diagrams, etc., of all property in the City.

Having a set of Books containing all bona fide sales made of late years, is in a position to show owners at what figures property in their locality is selling at.

P. SAINSEVAIN,

SOLE DEPOT OF THE

Sainsevain's Wine Bitters

THE CUCAMONGO WINES,

In San Bernardino County.

THE BELLE VUE WINES,

In Santa Clara County.

On the N. E. Cor. of Sacramento and Battery Sts.

SAN FRANCISCO.

CALIFORNIA
Agricultural Land Company.

This Company is formed for the purpose of buying and selling agricultural and other lands, purchasing large tracts, and subdividing the same into **SMALL FARMS!**

FOR THE ACCOMMODATION OF PERSONS OF LIMITED MEANS;

And also to sell in

LARGE TRACTS! To parties who wish to invest for cultivation or speculative purposes, and by giving purchasers who desire it the privilege of making

Small Payments upon the most Liberal Terms;

To encourage the settlement of agricultural lands, promote immigration, and stimulate the farming, vine growing, and stock raising interests of the State.

The agricultural districts of California, as yet in their infancy, have heretofore claimed but little attention. The opening of Railroad Communication with the Eastern States will, in a short time, give an impetus to an immigration of a class of people who will come to make this their home, and develop the resources of the country. Therefore, we may confidently expect to see a healthy advance in all lands adapted to agriculture and viniculture. The knowledge acquired by our farmers within the past two years, in regard to soil formerly considered worthless, but now known to be the best grain land in the State, has made them wealthy, and given them a stand in the first rank of capitalists and money makers. The miners, in many of the old camps, are abandoning them, and turning their attention to the valleys and foot-hills, for agricultural purposes, where they can be assured that their labor will be rewarded, and the cultivation of the soil will be crowned with success. The great scramble for real estate in San Francisco, must be based upon the belief that the interior products will build it up, thereby making it a great commercial point for the distribution of imports to its producers. It is, then, reasonable to suppose that an investment of five hundred or a thousand dollars in a farm which would be a homestead in reality, is far preferable to any investment now being offered.

Having been appointed Agents for the above Company, we are now offering for sale, on liberal terms and at exceedingly low rates, large and small tracts of land in different Counties of the State. Parties purchasing can be accommodated with climate and soil, which in their judgment may seem best suited for the cultivation of any of the various products of the country.

We shall constantly have for sale, Stock Ranches in all parts of the State, and large tracts of Improved Land for Lease. We shall also make it our business to lease to farmers, on reasonable terms, all descriptions of Farming Implements, with the privilege of purchase at the lowest manufacturers' rates.

Parties wishing to dispose of or purchase large tracts of land will find it to their advantage to give us a call, as it is our intention to keep on hand the largest and most complete list of cultivated and uncultivated lands ever offered in this State.

C. C. NOYES & CO.

422 MONTGOMERY STREET, SAN FRANCISCO.

A Beginning.

A farmer who bought last November (1868), reports (July 1869), that he has just engaged freight, to San Francisco, for 1,000 tons of Barley, produced by him on the "Stearn's Ranchos," and, but for starting too late, would have had much more to ship.

Transportation of Crops.

The large sail vessels constantly carrying, to the county of Los Angeles, lumber, railroad material, merchandise, etc., can well afford to take freight back to San Francisco at $3 per ton, when promptly supplied with whole cargoes.

Ships for New York or Europe, avoiding the port charges of San Francisco, can load cheaper from Anaheim Landing.

Fencing.

"Live Fences" are usual and popular near Los Angeles and Anaheim, and indeed they are in common use around the grain farms. Willows and other trees are set out, soon become fine hedges, and furnish also firewood.

Board and post fences are coming into favor as the lumber by the cargo can be delivered at Anaheim Landing at $20 to $25 per 1,000 feet.

The vessels can afford to take lumber from the mills on the N. W. coast of California to Los Angeles county at much lower rates as soon as the crops growing and to be produced, furnish return cargoes to the North.

On the vast prairies of the Stearns' Ranchos, many persons, producing large crops, do not deem it necessary to fence.

It is proposed to continue the stipulation in all contracts of sale, that animals shall not be allowed to roam over lands of others than the owners.

Prices, Etc., Etc.

The price of corn land, that will produce 80 to 120 bushels per acre, is $12, or less; of other lands, 50 to 60 bushels of wheat or barley per acre, same price; choice vineyards and orchard lands, $10 to $5. Terms to colonies, extra favorable.

The Government system of survey has been extended over these Ranchos for convenience, certainty of description, etc. Sales are made of sections of 640 acres; one-half sections, 320 acres; one-fourth sections, 160 acres, or of tracts of 80, 40, or 20 acres.

Since these lands have been recently offered, over one hundred intelligent, practical farmers have bought tracts of 640 to 20 acres, in the aggregate over 20,000 acres, or an average of over 200 acres each.

THE LARGER SQUARES represent Townships six miles square, containing 36 Sections. The smaller Squares within the "Stearns' Ranchos" represent one mile—a Section of 640 acres. Roads are proposed to be laid out on every Township, Range, and Section line, N. and S., and E. and W.,—thus forming Blocks of one mile square—subdivided to suit purchasers.

Farming Lands—Perfect Titles.

Early Mexican Grants confirmed by the U. S. Courts: distant 6 miles E. of the San Pedro and Los Angeles Railroad, now being constructed, 10 miles E. from Wilmington Port, 12 miles S. E. from Los Angeles, 1 mile from Anaheim Landing, where the steamers regularly deliver and receive cargo.

The River New San Gabriel runs along the west side, the Santa Ana on the east, and the Pacific Ocean forms the southern front.

This large tract, nearly level, with a gentle slope southward towards the Ocean, comprises a variety of soil, rich and fertile, well adapted to wheat, barley, oats, potatoes, etc., and choice tracts for the culture of the orange, lemon, olive, fig, mulberry, grape, and tropical and northern fruits generally; also, hops, castor-oil beans, hemp, flax and tobacco.

The large southern portion consists of bottom lands of rich alluvial and sandy loam, with water 3 to 7 feet under and moistening the surface—especially appropriate for the cultivation of CORN on a large scale, without irrigation, from which land 80 to 100 bushels per acre may be produced.

The famous German settlement "Anaheim" is on these lands. For health and comfort the climate is excellent, as is well known. Maps, showing the advantageous location, the sections and quarter sections, topography, &c., are ready for inspection at our office.

These lands are now for sale. ¼ cash, balance in 1, 2 and 3 years, with interest at 10 per cent., payable annually.

Routes.

Steamships leave San Francisco once every six days, touching at Santa Barbara (280 miles) the following noon, remaining a few hours; arrive at San Pedro and Wilmington (380 miles) the next morning; thence, after a few hours, proceed to Anaheim Landing (10 miles), and San Diego (90 miles). Returning, arrive at San Francisco the following Saturday.

Stages connect with steamers from San Pedro to Los Angeles (24 miles), from Wilmington to Los Angeles (20 miles), from Wilmington to Anaheim (20 miles).

The land route from San Francisco is by railroad, daily, to Gilroy (80), thence by stage through to Los Angeles in about two days, thence through Anaheim 25 miles) to San Diego, and return.

The Railroad from Wilmington to Los Angeles, now operated half-way, is expected to be finished in September, 1869.

JULY. 1869

☞ See preceding and following page.

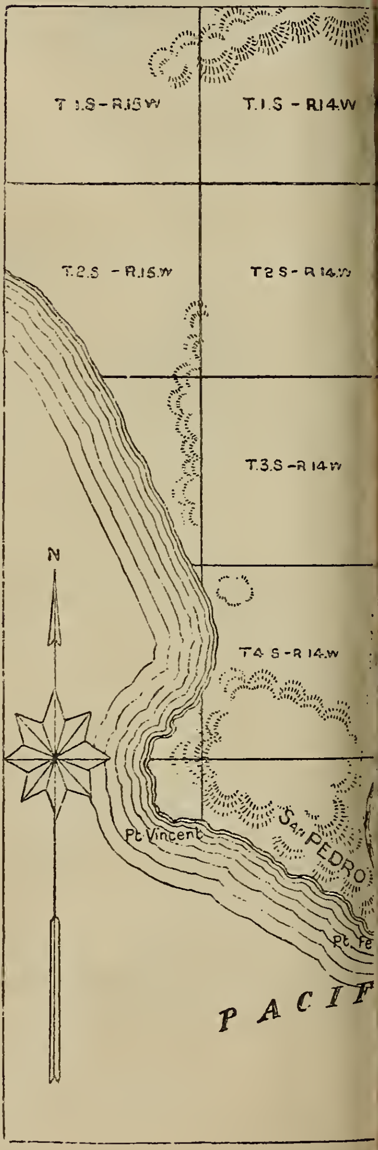
LOS A

"ABE

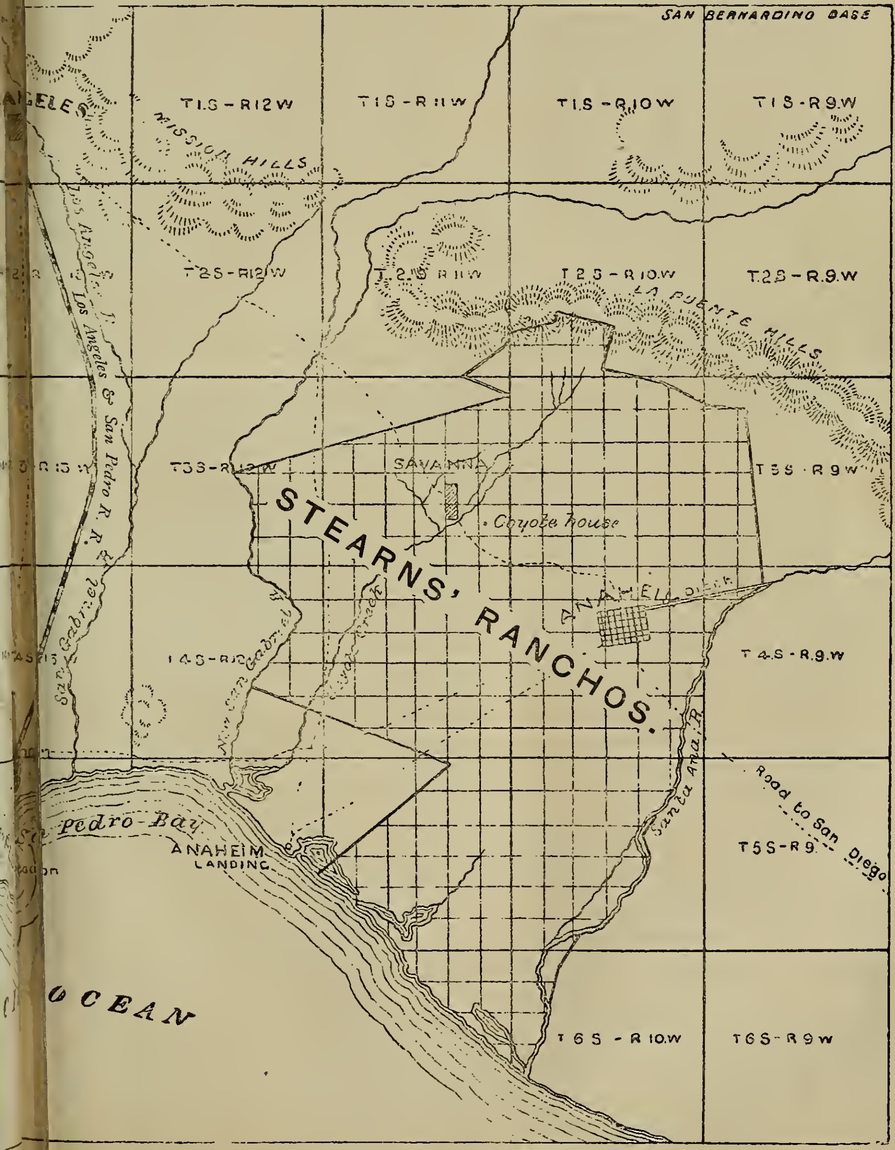
"LA HABRA," "LOS COY

E. F. NORTHAM,

OR AT THE AGENCY AT LOS ANGE



MAP OF PART OF
GELES COUNTY,
SHOWING THE
STEARNS' RANCHOS,"
"SAN JUAN CAJON," "LAS BOLSAS," "LA BOLSA CHICA"
OR SALE, IN SECTIONS OR FRACTIONS, BY
M tgomery Street, S. E. corner Sacramento, San Francisco,
LY TO **HENRY D. POLHEMUS**, Anaheim, Los Angeles Co., Cal.


SAN BERNARDINO BASE
T1S-R12W
T1S-R11W
T1S-R10W
T1S-R9W
MISSION HILLS
ANGELES
Los Angeles R.
T2S-R12W
T2S-R11W
T2S-R10W
T2S-R9W
LA PUENTE HILLS
Los Angeles & San Pedro R. R.
T3S-R12W
T3S-R13W
SAVANNA
Coyote house
T3S-R9W
STEARNS' RANCHOS.
San Gabriel R.
New San Gabriel R.
Coyote Creek
ANAHEIM DITCH
T4S-R12W
T4S-R9W
Santa Ana R.
Road to San Diego
T5S-R9
San Pedro Bay
ANAHEIM LANDING
OCEAN
T6S-R10W
T6S-R9W

Statistics—Los Angeles Co.

The lands, generally, of the "Santa Ana" and "San Gabriel" valleys, including the Stearns' Ranchos, have heretofore been used for grazing only. Now (in 1869) the horses and cattle have been removed, and there is a wonderful increase in the cultivation of grain and general farm produce—results of the conversion of the region into small farms and the great increase of the farming population.

The following statistics, compiled from returns so far as made to the County Assessor to August, 1868, though incomplete, and far below the actual quantities, will show what *had* been done on the comparatively few acres then in cultivation, and by the then small producing population:

Land enclosed, 17,000 acres. Land cultivated, 15,000. Wheat, 800 acres, 19,200 bushels. Rye, 35 acres, 700 bushels. Corn, 5,300 acres, 238,500 bushels. Buckwheat, 50, 1,500 bushels. Peas, 20 acres, 500 bushels. Peanuts, 10 acres, 10,000 pounds. Beans, 600 acres, 12,000 bushels. Sweet potatoes, 50 acres, 3,750 bushels. Onions, 25 acres, 62,500 bushels. Hay, 320 acres, 800 tons. Hops, 50 acres, 40,000 pounds. Tobacco, 15 acres, 8,250 pounds. Beets 20 tons. Turnips, 15 tons. Pumpkins and squashes, 1,000 tons. Cotton, 4 acres, 500 pounds. Silk cocoons, none. Rice, none. Broom corn, 25 acres. Butter, 25,000 pounds. Cheese, 10,000 pounds. Wool, 450,000 pounds. Honey, 75,000 pounds.

Trees, &c.—Apple, 6.500. Peach, 9,000. Pear, 4,000. Plum, 100. Cherry, 100. Nectarine, 200. Quince, 600. Apricot, 1,820. Fig, 2,000. Lemon, 2,300. Orange, 15,000. Olive, 1,590. Prune, 75. Mulberry, 250. Almond, 500. Walnut, 3.090. Strawberry, vines, 40,000. Grape vines, 3,838,000.

Wine, 760,000 gallons. Brandy, 77,000.

Horses, 12,000. Mules, 2,000. Asses, 200. Cows, 2,900. Calves, 2.070. Beef cattle, 7,000. Oxen, 560. Total number of cattle, 12,500. Sheep, 148,700. Hogs, 4,980. Chickens, 30,000. Turkeys, 1,000. Geese, 500. Ducks, 200. Hives of bees, 1,500.

Grist mills, water power, 5, Run of Stone, 10. Barrels of flour made, 6,700. Bushels of corn ground, 10,000. Saw mills, steam-power, 1. Quartz mills, 2. Tons of quartz crushed, 600.

Mining ditches, 3 miles in length, 14. Average amount of water used daily, 456 inches.

Irrigating ditches, 41. Acres irrigated, 10,000. The foregoing is for the year 1867.

Land cultivated in 1868, acres, 19,600. Acres of wheat sown in 1868, 765. Acres of barley sown in 1868, 6,000. Assessed value of real estate and assessed value of improvements, $1,142,830. Assessed value of personal property, $1,139,221. Estimated total population, 9,500. Registered voters, 2,370.

Economy of Cultivation.

No forests to remove, no stumps to get out, no preliminary clearing at $50 or $5 per acre is necessary on the "Stearns' Ranchos," Los Angeles Co. This extensive prairie is now ready for the plow, and, from the peculiarity of the soil, may be ploughed any day, even during the dry season.

It is particularly adapted to cultivation on a large scale, by machinery, at small cost.

THE

OVERLAND MONTHLY.

This Magazine has become universally recognized as the best exponent of the Social, Literary and Material Progress of the Pacific Slope, and it is the intention of the Publishers to retain in future numbers its characteristic reputation for

Essays on Local Material Resources,
Travels and Geographical Sketches,
Studies of Western Manners and Civilization,
Independent Literary Criticism,

With such other additions as may tend to the higher development of the Social, Literary, Material and Moral Resources of the West.

The increased immigration to California, consequent upon the completion of the Pacific Railroad, renders a Magazine honestly devoted to these special topics, a necessity to the immigrant and Western traveller.

A. ROMAN & CO., Publishers, 417 and 419 Montgomery Street.
JOHN H. CARMANY, Proprietor, 409 Washington Street, San Francisco.

Terms, $4.00 per annum, payable in advance.

CLUB RATES.—Two copies, $7.00; Five copies, $16.00; Ten copies, $30.00; and each additional copy, $3.00. For every Club of Twenty Subscribers, an extra copy will be furnished GRATIS.

The volumes commence with the January and July numbers of each year. Subscriptions may commence with any number.

The postage within the United States is 24 cents a year, and is payable yearly, semi-yearly, or quarterly, at the office where received. Foreign subscriptions must be prepaid, and the necessary amount must accompany the subscription.

A limited number of suitable advertisements will be inserted at the following rates for each insertion monthly: Inside pages, full page, $50; inside half page, $25; inside quarter page, $15; facing reading, full page, $75; do. half page, $40; inside cover, full page, $75; do. half page, $40; outside cover, full page, $150.

LEANDER RANSOM,

CIVIL ENGINEER

AND PRACTICAL SURVEYOR.

ALSO, LATE STATE LOCATING AGENT FOR SCHOOL LANDS.

Having been engaged in the construction and management of the Public Works of the State of Ohio for twenty years, and having had charge of the Public Surveys of the State of California for seven years, and the disposition of the School Lands of the State for ten years, and having provided his office with maps of all the Public Surveys of the State, as well as with the Land Laws, Instructions, Rules and Regulations of the State and the United States, he deems himself prepared to give any desired information relating to the lands of the State, or to transact any business appertaining to the entry, location, purchase or sale of the same.

☞ **Maps and Plats furnished when required.**
Field Notes of Intricate Surveys platted, and quantities calculated.
Deeds with difficult descriptions carefully drawn.

Field Work, either Surveying or Levelling, executed promptly, and every other kind of business connected with Public Works or lands attended to with despatch.

Office, South-west cor. Montgomery and Jackson Streets.

SAN FRANCISCO, CAL.

The Largest Stock at the Lowest Prices.

H. H. BANCROFT & COMPANY,

Manufacture, Publish, Import, and Offer at Wholesale and Retail,

BOOKS AND STATIONERY.

BOOKS in every department of literature, and STATIONERY from the Manufactories of England, France, Germany, and America.

BANCROFT'S CATALOGUE.

I. Miscellaneous Books.
History, Biography, Travels, Belles Lettres etc.

II. Religious Books.
Of all the various denominations.

III. Scientific Books.
Agricultural, Mechanical, Mining, Fine Arts, Natural History, Cyclopedias, etc.

IV. Medical Books.
Publishers of the Pacific Medical Journal.

V. Law Books.
Publishers of the Digests and Law Books relative to the Pacific Coast.

VI. School Books.
The leading stock on the Coast. Publish Clarke's Geographies, etc.

VII. Blanks.
The most perfect and popular line of Blank Forms ever printed in any country.

VIII. Stationery.
Bancroft's beautiful hand-made Papers, Bancroft's Envelopes, Blank Books, Gold Pens, Diaries, etc., the finest stock at the lowest prices in the market.

IX. Subscription Department.
Good Men can make money by canvassing for Books sold exclusively by Agents.

X. Publishing Department.
Maps, Blanks, Law, School and Miscellaneous Books, are constantly being issued by this House.

XI. Manufacturing.
Printing, Binding, Blank Book making, Blanks, Lithographing, Map making, Engraving, etc.

Bancroft's Maps.

Pacific States, mounted	$10 00	California and Nevada, pocket	$2 00
Rocky Mountain States, mounted	2 00	Oregon, Washington, etc., pocket	2 00
" " " pocket	1 00	Central California, pocket	50 cts.

H. H. BANCROFT & CO.

609 Montgomery Street, San Francisco, Cal.

SPLENDID INVESTMENTS.

FARM ON SHERMAN ISLAND.

Two Hundred and Seventy-one Acres of the richest land in the State, enclosed in a Bulkhead at a cost of $5.00 an acre. Two houses, one of which cost $3000.

For sale for $10,000.

ALSO,

OAKLAND SUBURBAN PROPERTY.

Twenty and a half Acres, beautifully located, near the Park, and in close proximity to the Railway Station. **Price $8,000.**

For sale by THOS. B. LEWIS & CO.
Cor. Montgomery and Sutter Streets.

8

ARGUMENT

ON THE

SURVEY

OF THE

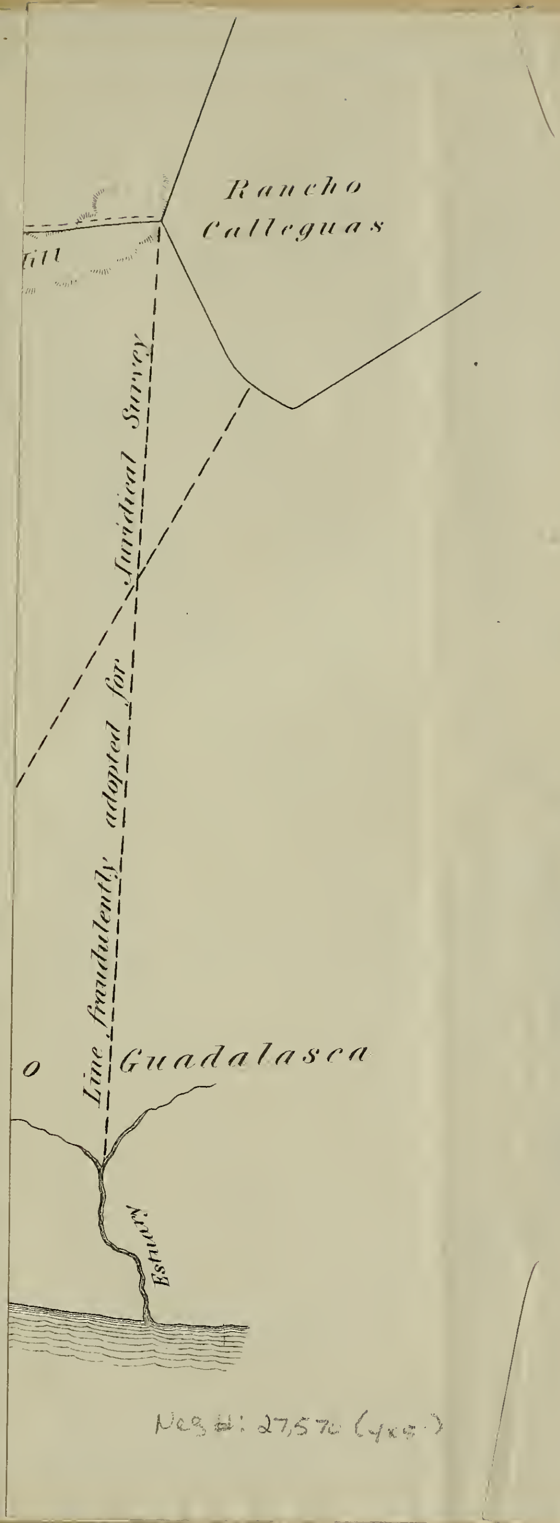
RANCHO "RIO DE SANTA CLARA,"

SITUATED IN THE

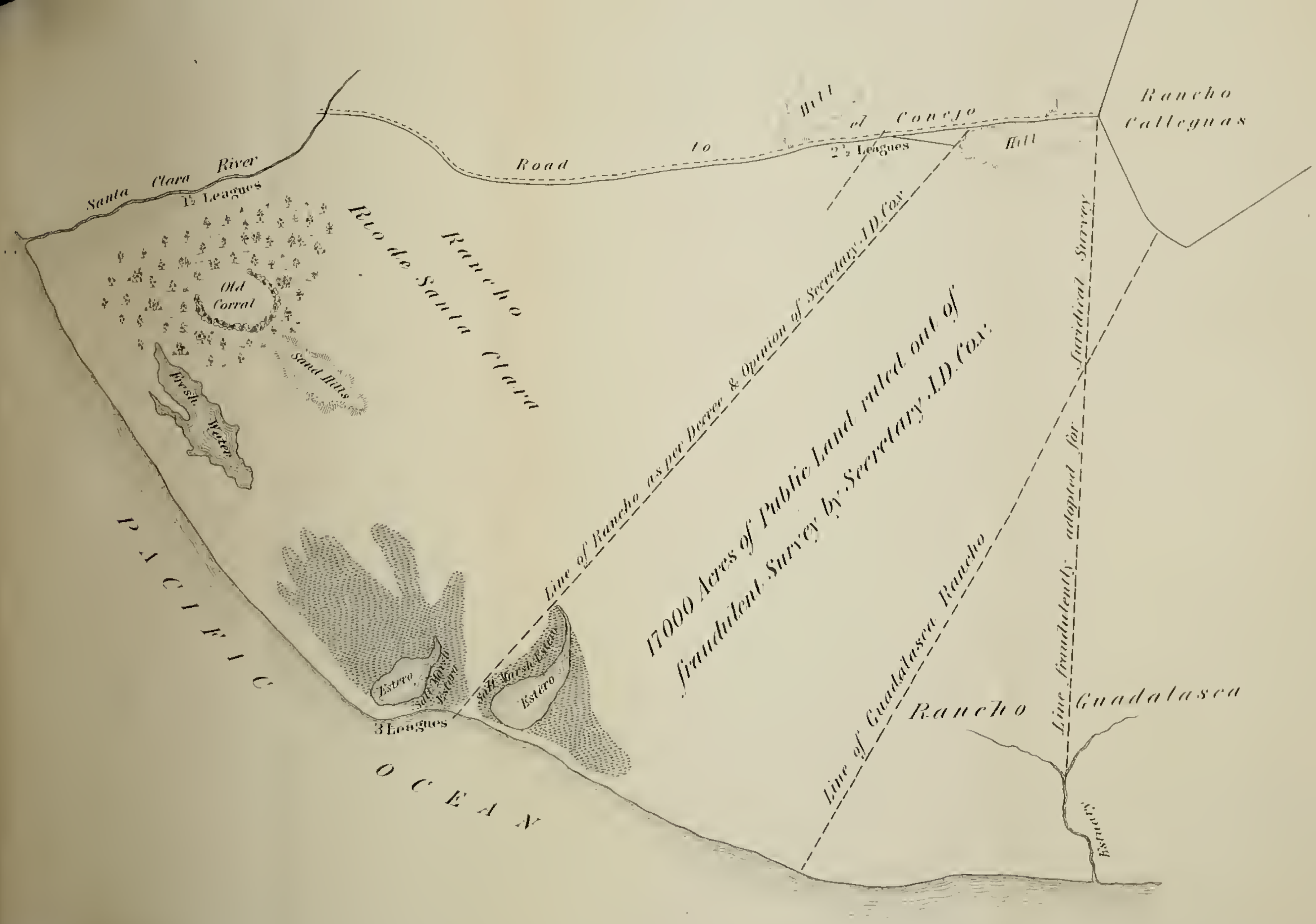
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA.

BY JAMES F. STUART,
ATTORNEY FOR THE SETTLERS.

WASHINGTON CITY:
M'GILL & WITHEROW, PRINTERS AND STEREOTYPERS.
1872.


Rancho Calleguas
ill
Line fraudulently adopted for Juridical Survey
o
Guadalasca
Estuary

Neg #: 27,570 (4x5)


Santa Clara River
1½ Leagues
Road to el Conejo
Hill
2½ Leagues
Hill
Rancho Callegnas
Rancho Rio de Santa Clara
Old Corral
Sand Hills
Fresh Water
Line of Rancho as per Decree & Opinion of Secretary J.D. Cox
17000 Acres of Public Land ruled out of fraudulent Survey by Secretary J.D. Cox.
Line of Guadalasca Rancho
Juridical Survey
Line fraudulently adopted for
Rancho Guadalasca
Estero
Salt Marsh Estero
Salt Marsh Estero
Estero
3 Leagues
Estuary
PACIFIC OCEAN

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ARGUMENT

ON THE

SURVEY OF THE RANCHO "RIO DE SANTA CLARA,"

Situated in the County of Santa Barbara, State of California.

The pretended claim of title to the Rancho "Rio de Santa Clara" first appeared on the 10th day of May, 1852. At this time a translation of the papers was filed before the Board of United States Land Commissioners, appointed under the act of Congress of March 3, 1851, to settle the private land claims in the State of California. The original papers were filed December 29, 1852. This was over six years after California was taken by the American forces, and was the very year in which it has been proved that most of the fraudulent claims to lands in California were made.

The papers produced convey no title, and were as follows:

First. Permission to occupy the lands under a temporary license.

Second. A map.

Third. A paper purporting to be a Mexican survey of the land.

R. C. Hopkins, keeper of the Spanish archives in the Surveyor General's office, gives the following certificate as to these papers:

"Valentine Cota, *et al.*
vs.
"The United States.

"I hereby certify, that in the above stated claim of Valentine Cota, *et al.*, against the United States, for a confirmation of a grant to *Rio de Santa Clara*, I find that the following described documents were filed by the claimants before the board of land commissioners, to wit: *permission* by Governor Alvarado *to occupy the lands*, given May 22d, 1837; map of land; and record of possession given on the twenth-eighth day of September, 1840. These papers were filed before the board of land commissioners on the twenty-ninth day of December, 1852. That I do not find among the archives of the Spanish and Mexican Governments in California *any expediente*, or other record evidence, of a grant to Valentine Cota, *et al.*, for the *Rio de Santa Clara.*"

"San Francisco, December 24th, 1869."

"R. C. Hopkins,
Keeper of Archives."

(See Exhibit C.)

The foregoing are all the papers constituting the claim to this Rancho "Rio de Santa Clara."

The Supreme Court of the United States have decided that "possession" of land, "under a simple permission to occupy, could not raise even an equity against the Government," (21 California, 489; 5 Wall., 461, 599, 629,) and that "*parol proof* of a grant produced from a private receptacle, without proof that it had been deposited and recorded in the proper office, is not sufficient to support a title, even if possession be proved by the oral testimony of witnesses." (24 How., 346, 351.) Also that "a paper purporting to be a grant of land in California, first produced from the custody of a claimant after the war, and unsustained by any record evidence, will not be held valid by this court." (1 Black's Reports, p. 298; 24 How., 125; 3 Wall., 439, 441.)

Hence, if all these papers together "will not be held valid," and are "not sufficient to support a title, even if possession be proved by the oral testimony of witnesses," the map taken separately cannot be used as proof to add four leagues to the quantity confirmed by the decree, when it is not once named in said decree.

HOW THIS CLAIM WAS CONFIRMED.

During the early years of California a judge (now dead) presided over the United States district court for the southern district of California, whose decrees of confirmation in these Mexican private land claim cases have become notorious, and have caused more litigation and entailed more misery upon the poor people of the southern district of California than almost any evil that has afflicted the people of our State.

The Rancho "Rincon de los Bueyes" is a rancho of about ⅗ of one league. The title papers show this, and this is all that was claimed by the owners in their petition before the board of land commissioners. The judge confirmed the rancho, limiting the quantity confirmed to eleven square leagues.

In the rancho "San Pedro," the attorney for the claimants filed an affidavit in the case, setting forth the fact, that the rancho in all did not contain over one square league. The judge confirmed this rancho, limiting the quantity to eleven square leagues. So in a large number of other cases, where the claimants only claimed from one to three or four leagues of land, are found decrees of confirmation limiting the quantity confirmed to eleven square leagues. Proofs on this point are on file among the papers in the case of the survey of Rancho "Sausal Redondo." In one case, where the grant was for four leagues, there are found two decrees of confirmation: one for four leagues and the other limiting the quantity to eleven square leagues.

The claim to the Rancho "Rio de Santa Clara" was rejected by the board of land commissioners, but when it came before this judge, who had assumed to be possessed of granting powers, to grant away be decrees land never granted by the Mexican government, this claim was confirmed. The decree signed by the judge in this case describes the land confirmed as follows: "Beginning on the Santa Clara river, in the place called *El Paso del Rio*, and

9 a.
13 ½ a = 15 [illegible]

thence easterly two and a half leagues *to a hill*, called the En Medio, on the side of the main road to El Conejo; thence southerly to the sea-shore, between two esteros, three leagues; thence over the plain and along the sea-shore northwest to the river, where there is a cienega or marsh, three leagues; thence over the plain and along the bank of the river to the point of beginning, one and a half leagues; stakes having been driven in each corner, as is more particularly described in the juridical possession, which is of record in this case, and to which reference is had IN AID OF said description."

Now, the United States Supreme Court have said that "the decree is a finality, not only on the question of title, but as to the boundaries which it specifies." (1 Wall., 455, 456; 2 Wall., 448.)

That "the documents to which reference is made *can only be resorted* to in order *to explain an ambiguity in the language of the description* given. They cannot be resorted to in order to change the natural import of the language used, if there be no uncertainty therein. If reference to original title papers, where no doubt arises as to the terms of the decree, would authorize an inquiry into a matter of BOUNDARY, it would, with equal propriety, authorize an inquiry into any other matter upon which the commission had acted; and every question affecting the decree might be opened anew to consideration and contestation." (1 Wall., 455.)

The decree of confirmation is based on this Mexican survey, to which it refers, and this Mexican survey and the decree of confirmation both describe a tract of land bounding 2½ leagues on the northerly side; 3 leagues on the easterly side; 3 leagues on the ocean; and 1½ leagues on the Santa Clara river. As to these Mexican surveys, the United States Supreme Court say:

> "As preliminary to the actual delivery of possession, *the land had to be* MEASURED *and its boundaries* ESTABLISHED when there was any uncertainty in the description of the premises."

Here the Supreme Court declare that the *Mexican measurement* settled the question as to the boundaries. As the decree in this "Rio de Santa Clara" case is based wholly on this Mexican measurement, all that the surveyor general of the United States could legally do was to locate the rancho in accordance with said measurement. (Graham *v.* United States, 4 Wall., 261, 262.)

In 1 Wallace the court describe the manner in which these Mexican surveys were made, as follows:

> "The judge designated a day, and directed that the adjoining proprietors be cited, and that measurers and counters be appointed. On the day designated the proprietors appeared, and two measurers and two counters were appointed and sworn for the faithful discharge of their duties. A line, provided for the measurement, was produced, and its precise length ascertained. The measurer then proceeded to measure the land, the judge and the proprietors accompanying them." (Malarin *v.* United States, 1 Wall., 289, 290.)

The two counters named were witnesses, who went along and counted each cord run. They and the surveyors acted under oath. It will be seen that, under this perfect system, no great mistake could occur. A fraud might be perpetrated; in which case, neither the Mexican government nor our Government would be bound by it, for "Fraud vitiates all transactions. It makes void a judgment, which is a much more solemn act than issuing a patent." (2 How., 285, 318.) Therefore, we are bound to construe these Mexican surveys and the decrees based on them so as to give legal effect to them, and not to assume or to resort to parol evidence to prove that they are frauds, for the purpose of carrying out fraudulent surveys under the Government of the United States.

A great effort is now being made to deceive the officers of the land department of the Government, through representations of parties who are either directly interested or are employed and paid for that purpose, by making it appear that these juridical (Mexican) surveys were carelessly and dishonestly made, and lines represented as being one league ($2\frac{63}{100}$ miles) in length were in fact two leagues ($5\frac{26}{100}$ miles;) and lines represented as being 3 leagues ($7\frac{89}{100}$ miles) were in fact six leagues ($15\frac{78}{100}$) miles.) This last is the fraud attempted in this Rio de Santo Clara case, and in adding $7\frac{83}{100}$ miles to the line of the Mexican survey on the coast of this rancho they extend it $3\frac{94}{100}$ miles inside of another rancho, and about 13 miles farther east than the monuments are represented to be on the Mexican map. Now, these representations are false, and cannot be established by the records of the Mexican archives now in the United States surveyor general's office in San Francisco. If they were true, the survey would be void for fraud. (2 Wall., 448 and 449.) But the United States Supreme Court, as to these surveys, say, that "*the land had to be measured and its boundaries established* when there was any uncertainty in the description of the premises, and that this *had all the force and effect of a judicial determination.*" (5 Wall., 539.) Here the court decide the character of these surveys. The decrees are based on them, and we cannot resort to outside statements or parol evidence to prove that they were frauds, and then bind the decrees to them, when the decrees are based upon the assumption and proof that they were honest and true.

A fraudulent survey of this Rancho "Rio de Santa Clara" was made in 1867, which was rejected, and a new survey and plat ordered to be made by Secretary J. D. Cox, on the 15th day of June, 1870. The opinion of Secretary Cox defines the exact bounds of the eastern line of said rancho, and he orders the survey to be made in accordance with his opinion. The fraud in this survey was as follows: The decree describes the northern line as running $2\frac{1}{2}$ leagues, "*to a hill*" on the side of the main road to El Counejo. The first hill on the side of the road fell a little short of $2\frac{1}{2}$ leagues, and the second hill overrun the $2\frac{1}{2}$ leagues a short distance. Secretary Cox gave the grantee the benefit of the doubt, and ordered the survey to extend to the west end of the second hill. The fraud consisted in extending the line a mile and three-quarters farther, so as to bound on the Rancho Calleguas. The Mexican survey ran from the point named at this hill to a point on the ocean three leagues east from the mouth of the River "Santa Clara," terminating on the ocean between two esteros. The fraudulent survey was based on the ground that the esteros were about six leagues east from the mouth of the Santo Clara river, instead of three leagues, according to the Mexican survey and decree founded on it, and that said esteros were about a league and a half inside of a rancho granted by the Mexican government to other parties, three years before the date of the Mexican survey of this Rancho Rio de Santa Clara.

The decision of Secretary Cox adopts the point on the ocean named in the decree and Mexican survey, three leagues east from the mouth of the River Santa Clara, and he orders a line to be run from the west end of the hill named to this point, three leagues east from the mouth of said river. At this point on the ocean the esteros named in the decree are found. The fraudulent survey took in all the Government land between the easterly line of the Mexican survey adopted by Secretary Cox and the ranchos of Calleguas and Guadalasca, (with the exception of a small tract in the northeast corner,) containing about 17,000 acres of Government land, and including the homes of about 125 settlers, with their families.

The map submitted herewith is made on a scale of 120 chains (or one mile and a half) to one inch.

The United States survey of Guadalasca Rancho locates the western line of said rancho about where it is marked on this map, but the grant of said rancho and the coast survey map show that the western line of said rancho should terminate on the ocean a league and a half west of the estuary in said ranch, and at a point about half the distance between said estuary and the middle of the two esteros.

The Mexican law, as to surveys, was as follows:

"No person, though his grant be older than others, can take possession for himself, or measure, or set limits to, his landed property, unless it is done by judicial authority, *with the citation of all those who bound upon him;* for whatever is done contrary to this *will be null, of no validity or effect.*" (See "Ordenanzas de Tierras y Aquas," by Galvan, ed. of 1855, p. 185; and 5 Wall., pp. 449 and 450, where this law is quoted.)

The field-notes of the Mexican survey in this case show that no adjoining proprietors were cited to be present at the survey. The judge was bound to keep a record of all his proceedings in these surveys, and to have the same attested by the assisting witnesses, and to furnish the grantee with an authentic copy. (4 Wall., 261 and 262.) This was done in the present case, and the copy is produced and referred to in the decree, and it shows no adjoining rancho owners.

We must take the survey as we find it, and cannot add to or take from the record on which the decree is based.

To make this rancho bound on two other ranchos on the east would belie and contradict the field-notes of the juridical survey, and make the whole survey "null, of no validity or effect;" and the decree, being founded on it, would be void, on the ground that what is "*null*, of no validity or effect," cannot be confirmed.

The judge says in the field-notes of the juridical survey, (just before he commenced the measurement of the land,) "*the legal requisites having been previously complied with.*" What were those legal requisites? One was that, if there were owners of ranchos on which the survey would bound, to "issue citations" to them, or the survey would be "null, of no validity or effect." To say that the survey bounded on two ranchos on the east, would contradict the field-notes, make the judge a liar, and his survey "null, of no validity or effect," and the decree would fall with it.

In the decision of the Hon. C. Delano, Secretary of the Interior, in the case of the survey of the Rancho "Corte de Maderia del Presidio," we find the following as to construing these juridical possessions: "One of these constructions would confirm what had before been done, GIVE EFFECT TO THE JURIDICAL POSSESSION, *and be consistent with law*; the other would disregard the antecedent history of the case, give NO EFFECT to the juridical possession, and arbitrarily limit the extent of the grant. In such a case, I am clearly of the opinion that the construction should be adopted which gives *full force* and EFFECT *to the action of the Mexican authorities*, as sanctioned by the board of land commissioners." In the same case the Hon. W. H. Smith, Assistant Attorney General, says: "Where a written document is capable of two constructions, one consistent with and the other contrary to law, that consistent with law must be given it." (Coke Litt., 42; 2 Black. Comm., 380; Chitty Cm., 84; Archibald *vs.* Thomas, 3 Cowen, 284; Ackland *vs.* Lenly, 1 P. & Daw, 636; Thrall *vs.* Newall, 19 Vt., 202; Jackson *vs.* Tiffany, 1 Wend., 388.) These rules of construction compell us to adopt the calls in the decree and juridical possession that will give legal effect to both; and no other construction except that given by Secretary Cox in his decision in this case of June 15, 1870, will do this. The Supreme Court say: "Were there any doubt of the intention of the governor to cede all the land contained within the boundaries designated by him, it would be removed by the juridical possession delivered to the grantees. This proceeding involved an *ascertainment* and *settlement of the boundaries of the land granted* by the appropriate officers of the Government, specially designated for that purpose, and has all the force and effect of a *judicial determination.* It bound the former government, and is equally binding on the officers of our Government. (United States *vs.* Pico, 5 Wall., 539.)

How does this Mexican survey settle the question as to the boundaries, and judicially determine them, and bind the officers of our Government. The questions at issue are not between the Mexican survey and map, or between the Mexican survey of 1840 and report of Silas Reed, in

1871. If the Mexican survey settled the question of boundaries, then nothing can be brought forward to contradict this, or to destroy its force and validity, when the decree of final confirmation is based on it. The northern line of the decree and juridical survey runs 2½ leagues east, "to a hill (*in the middle*, the Mexican survey has it, and the decree to a hill called the "En Medio," in the middle) on the side of the main road to El Conejo. There are two hills on the side of this road: one is not quite 2½ leagues, and the other is a little more than 2½ leagues from the starting point. This last-named hill was adopted by Secretary Cox in his decision. Now, the only dispute that could arise here was, as to which of these hills the line was to terminate at; and, as the 2½ leagues measurement terminated between these hills, the decision of Secretary Cox gave the grant owner the benefit of any doubt as to which was the hill, and ordered the survey to terminate at the western base of the hill, a little over 2½ leagues from the starting point.

The Mexican survey being made with a rope, and that of the United States with a chain, a small difference in the measurement might be the result. In this case the two surveys agree on two lines, and differ but very little on the other two.

The juridical survey and final decree of confirmation, based wholly on said survey, describes the eastern line of Rancho "Rio de Santa Clara" as running from the hill named above to a point *on the ocean* three leagues east from the mouth of the Santa Clara river, between or in the middle of two esteros. Now, these esteros are found just where the Mexican juridical survey found them, and where the decree calls for them; and Secretary Cox, in his decision in this case, ordered the survey on the ocean to terminate at this point. This left about 17,000 acres of Government land lying between the eastern line of this rancho and the ranchos of Calleguas and Guadalasca, on which about one hundred and twenty-five settlers with their families have erected their improvements and made their homes.

The present Secretary of the Interior is now asked to set aside this decision of his predecessor, the Hon. J. D. Cox, and to give to the claimants of this rancho the 17,000 acres of Government land lying east of their rancho, including the homes of the settlers named, and including all the valuable and permanent improvements made by them on this land since the decision of Secretary Cox, of June 15, 1870.

This, we contend, cannot legally be done.

1st. Because the Mexican survey settled the question as to the boundaries of the land claimed and confirmed, and had "all the force and efficacy of a judicial determination." (5 Wall., 539.)

2d. Because the final decree of confirmation is wholly based on this Mexican survey, the field-notes of which are adopted by the decree.

3d. Because the Hon. J. D. Cox, former Secretary of the Interior, decided this case *legally*, basing his decision on the final decree of confirmation and the juridical survey, and he adopted the monuments called for in the decree of confirmation, and which nearest conformed to the Mexican survey; thus giving legal effect to said survey and decree.

4th. Because there are no monuments that will answer all the calls in the decree anywhere east of those adopted by Secretary Cox. The monuments on the ocean are found just where the decree calls for them, and where the Mexican survey found them. The other monuments on the coast, of the same character, do not correspond with the measurements named in the decree and Mexican survey; and the monuments six leagues east and 1½ league inside of the Guadalasca rancho are not on the ocean, but in the interior of said rancho, and in no way do they answer the call in the decree. The Conejo road is a little east of the Mexican measurement, and fully satisfies the call in the decree.

5th. That, under all the decisions of the Supreme Court of the United States, as to the effect of these Mexican surveys, where any dispute arises as to the exact nature of the monuments called for in the decrees, based on said surveys, such as some of those named in this case, the Mexican survey settles these questions. *Actual measurement* settles all disputes of this kind. (5 Wall., 539; 4 Wall., 261 and 262.)

The definition of the Spanish word "estero" is "salt marsh," "lake," "small creek." (See definition of estero in Appendix.) The decree of confirmation in this case was filed in the case June 4, 1857. That same year the United States coast surveyors surveyed the coast in front of this rancho, and found the esteros named in the decree just where the decree calls for them, and where the Mexican survey found them in 1840—on the ocean, three leagues east from the mouth of the Santa Clara river. There is no dispute about their being at this point now. But there are three definitions to estero: one is "salt marsh," another "lake," another "small creek." At the point named are two lakes, with their mouths sometimes closed, and sometimes open; then there are two separate tracts of salt marsh, about which there can be no dispute. How are we to determine, under all the rules laid down by the United States Supreme Court in these Mexican surveys, as to which esteros were intended by the decree and Mexican survey—the salt marsh, the lakes, or the small creeks. The Supreme Court have decided that *the survey*, *the measurement*, settled this question. (5 Wall., 539; 4 Wall., 261 and 262.) The esteros, whether as salt marsh, lakes, or creeks, being where the actual measurement by the Mexican officials found them, and where the decree calls for them, estops all parties from contradicting this measurement; and the decree, by attempting to adopt other esteros, in violation of both.

To decide that this rancho bounded on the Ranchos of Calleguas and Guadalasca would destroy the validity of the juridical survey made under the Mexican government of this rancho, and make it "null, of no validity or effect." It would contradict the field-notes of said juridical survey, and make the judge and assisting witnesses liars. Where they sign the declaration that, "the legal requisites having been previously complied with" before they made the survey, is a declaration on their part that the survey bounded on no other rancho; for, if it had, one of the legal requisites required them to issue citations to adjoining proprietors. The fact that they did not issue citations to any rancho owners, and that they declare in their field-notes that "the legal requisites" were "complied with," before the survey was made, is a declaration by the judge and the assisting witnesses that there were no adjoining proprietors.

This official declaration cannot be contradicted or disregarded. Hence there is no way to give legal effect to this Mexican survey, and the decree founded on it, but to adopt the monuments that are found where the Mexican measurement found them, and where they now exist. (5 Wall., 539; 4 Wall., 261 and 262; and Opinions of Hon. C. Delano and Hon. W. H. Smith, in case of survey of Rancho "Corte de Maderia del Presidio," pp. 3, 4, and 5, of printed decision.)

The field-notes of the Mexican survey show that, before proceeding to measure the lines of this rancho, the surveyors and rope-bearers *promised*, "*under oath*, to discharge faithfully the duties of their office." The measurement returned by them under oath is that adopted by the decree of confirmation and decision of Secretary Cox, as shown. This measurement was authenticated and signed by the judge and assisting witnesses.

From the foregoing it will be seen—

First. That all the papers produced as title papers in this case convey nothing; that they do not constitute a foundation for a confirmation of any claim to land; and that they cannot be resorted to to prove anything. (21 Cal., 489; 5 Wall., 451, 459, and 461; 1 Black, 298; 24 How., 125; 3 Wall., 439 to 441.)

Second. That said claim was confirmed by a judge who assumed to himself granting power in his decrees; and that his decree in this case was based wholly on the Mexican survey, which was among the papers filed in said case.

Third. That the decree refers to no paper in this case but this Mexican survey, and only to that, "*in aid of*" the description of the land confirmed.

Fourth. That papers produced from private custody, like those named, as filed in this case, cannot be resorted to for any purpose, unless they are made a part of the decree; and that a mere reference to a paper, in aid of a description, does not make it a part of the decree. (1 Wall., 445.)

Fifth. That the Mexican map, filed with the other papers in this case in 1852, is not a record, and is ruled out as proof in this case under the decisions of the Supreme Court referred to, and is not named in the decree of confirmation. (1 Black, 298; 24 How., 125; 3 Wall., 439, 441.)

Sixth. That the Supreme Court have decided that the Mexican *survey* settled the question as to the boundaries of this ranch, and the *monuments* named in said survey being now found at or near where the Mexican *survey* found them, and where the decree calls for them, we are estopped from looking for monuments elsewhere, and from resorting to the map or other papers filed in this case in 1852, or to parol testimony, to contradict or vary the natural import of the language used in the decree or Mexican survey, which is the only paper referred to in said decree.

Seventh. That the Secretary of the Interior is not possessed of granting power to grant away four leagues of Government land; and it being shown by proof in this case that the decree of confirmation of said claim is all that gives any right to any lands on this rancho, any attempt made to go outside of the Mexican survey, as adopted by the decree, and to add to said rancho lands not included in said Mexican survey, under any pretext whatever, would be an assumption of granting power.

The map produced from private custody in 1852, and filed with the other papers in this case, has no scale of measurement marked on it. The map measures about 6½ inches from north to south, and about 3½ or 3¾ inches from east to west; within these bounds are the monuments claimed to be the monuments of this rancho. The Government survey on the Santa Clara river from north to south, taking in all these monuments, is just about one and a half league, just the distance named in the Mexican measurement. Here is no dispute. There are only six monuments on this Mexican map eastward from the Santa Clara river near the ocean; four of these monuments, the "*Willows*," the "*Old Corral*," the "*Sand Hills*," and the "*Laguna*," (fresh water pond,) are all marked on the Coast Survey map of 1857, and are found in the exact position as located on this Mexican map. They extend eastwardly from the Santa Clara river on this Mexican map over half the distance of the width of the map, and on the Coast Survey map of 1857 they are shown to be only a little over a half league east from the Santa Clara river. We have located them farther east on exhibit map herein, so as to show them more plainly.

According to this, all the monuments on this Mexican map should be found within the bounds of a league east of the Santa Clara river. But this Mexican map has an estero, with its mouth open to the sea, marked on it at its eastern bound, about a league east from the Santa Clara river, as per measurements named.

If this map was made at the time that the permission to occupy this land was given, then it was made in 1837, over thirty-four years since. At this time probably there were esteros on the coast within a league distant east from the mouth of the Santa Clara river, with their mouths open to the sea; and in 1840, three years after the permission to occupy this land was given, the parties in possession applied to have their land *surveyed*, in order that the boundaries of their rancho might be judicially determined by *actual measurement*. This was done, and we have the full field-notes of that measurement, and the esteros were found by actual measurement to be just three leagues east from the mouth of the "Rio de Santa Clara," while the Mexican map would indicate that they were only about one league east from the mouth of the river.

The judge who confirmed the claim in 1857 adopted the field notes of this Mexican survey of 1840, and located by his decree these esteros three leagues east from the mouth of the Santa Clara river, just where the Mexican survey found them; and the decree does not once refer to this Mexican map, which would locate said esteros only about one league east from said river. And why did not the decree refer to this map? Because it did not conform with the actual measurement of the land, and, as the measurement settled all questions and disputes about boundaries, the map was laid aside, and not once referred to in the decree. "The decree, being itself clear and precise, does not refer to the rough daubs called diseños, (maps,) or to the record of juridical possession, for the purpose of rendering uncertain that which the decree made certain." (2 Wall., 448.)

This "decree is a finality," (1 Wall., 455, 456; 2 Wall., 448,) and the Mexican survey settled the dispute as to whether the esteros on the ocean were only a league east from the mouth of the river, as represented on the map, or three leagues, as per *actual survey*. (1 Wall., 289, 290; 4 Wall., 261, 262; 5 Wall., 539.

The fraud now attempted is to open up the whole case of the survey of this rancho again, which was settled so fully and perfectly by the Mexican survey of 1840 and decree of confirmation of 1857, and to drag in this Mexican map and reports of parties made in 1871, thirty-four years after this map was made, and thirty-one years after the Mexican survey was made; and by these and parol testimony, in violation of all law and of all the decisions of the courts to contradict the decree of confirmation, and belie and contradict and destroy the validity of the Mexican survey, and by these means to adopt esteros six leagues east from the mouth of the Santa Clara river instead of three as per Mexican survey; and when these esteros are found to be about a league and a half inside of another rancho, granted three years before this Mexican survey was made, which would show the impossibility of its ever having extended a league and a half into said rancho. All this fraud is attempted, to take from 125 settlers their homes established on Government land, and to give their lands and improvements to parties who have no legal or equitable right to the same.

We have shown that all the papers produced in this case as title papers, including this Mexican map, cannot be used as a foundation for title, nor can parol testimony be resorted to, to give any legal effect to them. Having been for the first time produced from private custody over six years after California was taken possession of by the American forces, and having never been on file in the Mexican archives, and no evidence being found in said archives to show that any title to this rancho had ever existed, the map now brought forward as evidence to use with parol testimony against the decree and Mexican survey adopted by the decree, is an attempt to override and disregard and violate all the laws and the decisions, which declare that such papers are not evidence, and that they cannot be made evidence by parole testimony. (24 How., 346 to 351; 1 Black's Reports, 298; 24 How., 125; 3 Wall., 439 to 441.)

Since the decision of Secretary Cox in this case of June 15, 1870, no new facts have been discovered except those from the Coast Survey Office, which prove conclusively that in 1857 the esteros named in the decree of confirmation of 1857 of this rancho were found just where said decree calls for them, and at the point adopted by Secretary Cox in his decision.

Hence, under all the decisions in reference to cases of this kind, we most respectfully submit that the decision of Secretary Cox in this case is final, and binds the Government and all parties interested in said case.

Extract from the opinion of A. T. Akerman, Attorney General:

"Department of Justice, *March* 7, 1871.
"Hon. C. Delano, *Secretary of the Interior.*

"Sir: On the 7th of July last Mr. Cox, then Secretary of the Interior, decided the cases of R. C. Sargent and others, and S. V. Treadway and others *v.* The Western Pacific Railroad Company, in which an appeal to him had been taken from the Commissioner of the General Land Office, in favor of the Sargents and Treadway, and recognized those persons as the lawful purchasers of certain lands in California, under the act of July 23, 1866. (14 U. S. Stats., 220.) The railroad company has asked you to reconsider the case, and to *reverse* this decision of your predecessor. The application rests solely upon the ground that his decision was erroneous in law.

"Your letter of the 6th of January last requests my advice upon the questions: 1st, whether you are authorized to reconsider the case; 2d, upon the question whether there is any error of law in Mr. Cox's decision.

"It has not yet been settled how far the decisions of a head of a department have the conclusive force of the judgments of courts. But the better opinion certainly is, that such decisions should not be disturbed, except in extraordinary cases. (The United States *v.* The Bank of the Metropolis, 15 Peters, 401; Opinion of Mr. Wirt, 2 Opinions, 9; of Mr. Taney, 2 Opinions, 464; of Mr. Nelson, 4 Opinions, 341; of Mr Toucey, 5 Opinions, 29; of Mr. Johnson, 5 Opinions, 123, 124; of Mr. Black, 9 Opinions, 101, 301, 302; of Mr. Stanbury, 12 Opinions, 358; of Mr. Hoar, (not yet published,) dated April 26, 1869, in relation to the case of Admiral Goldsborough, and another unpublished opinion of May 5, 1870, in relation to the claim of George Chorpenning.)

"Against the current of authority is to be set the opinion of Attorney General Bates, (10 Opinions, pp. 61, 62.) His dissent is, however, somewhat weakened in force by his late opinion in the case of Anson Dart, (10 Opinions, 255,) in which he seems substantially to concur with the other opinions which I have cited.

"In the case in hand, the parties in interest where heard before Secretary Cox. His decision was the result of careful and thorough consideration. It is not alleged that any material fact in the case can now be laid before you, which was not before him. There was no haste, no surprise, no inadvertence. I am therefore of opinion that his decision should be considered as the final adjudication of your department."

Extract from decision of Hon. J. D. Cox, Secretary of the Interior, December 4, 1869, in case of survey of Rancho "Las Positas:"

"I am asked to reconsider and set aside that decision, approve the rejected survey, and thus *correct a grave and fatal error* into which my predecessor has fallen. There are several opinions of Attorneys General and decisions of the Supreme Court which bear directly upon this question. They established the principle, that the head of a department cannot reverse and set aside the decision of his predecessor in a matter involving private rights and requiring the exercise of judgment and discretion: Such a decision is quasi-judicial in its nature, and if each succeeding Secretary could disregard it and apply a new rule in the same case, it is evident that in such matters there could be no final and conclusive action by the executive departments."

Extract from decision of Hon. C. Delano, Secretary of the Interior, in case of Beaubien and Miranda, dated July 27, 1871.

"As the law now stands, I am of opinion that there is no authority for me to make the order asked for. It appears from the statements contained in your application, and from the records of this department, that my predecessor, Mr. Secretary Cox, on the thirty-first day of December, 1869, decided that the grantees were, under the act of June 21, 1860, entitled to only twenty-two leagues of land; that he directed the Commissioner of the General Land Office to permit a survey of only that quantity; that if the claimants refused to accept such survey, their money, deposited to pay the expenses of the survey, should be returned to them; no survey of the grant, as such, should be made, and no notice of the grant should be taken in the action of the General Land Office.

"This order was made before any survey had been made of the tract. I am asked to reverse it.

"However well satisfied I may be that the construction put upon the act of June 21, 1860, was erroneous, still I do not feel justified in reversing it. If I can review and reverse in this case, then my successor, if he should differ with me and agree with my predecessor, could review and reverse my action, and so on indefinitely, and there would be no end to controversy. For this reason it has been uniformly held, by the learned gentlemen who have filled the office of Attorneys General, that the decision of the head of a department was final and binding upon his successor. (See the opinion of Mr. Wirt, 2 Op., 9; of Mr. Toucey, 5 Op., 29; of Mr. Johnson, id., 123; of Mr. Black, 9 Op., 101, 301, 387; of Mr. Stanbury, 12 Op., 358; of Mr. Hoar, of April 26, 1869; and of Mr. Akerman, of May 5, 1870; see also United States *v.* Bank of Metropolis, 15 Pet., 401.)

"I do not hesitate to say that, if the question as to the construction of this grant were *res integra*, and presented in such a form as to allow me to decide upon it, I should feel constrained to differ with my predecessor in regard to it; but, as it is, I feel bound by his decision, and must leave the parties to congressional, or such other relief as they may be able to obtain."

Copy of decision of Hon. B. R. Cowen, Acting Secretary of the Interior:

"Department of the Interior,
"Washington, D. C., *August* 4, 1871.

"Sir: I have considered your application of 15th June last, requesting me to advise the President to direct that the certificate should be erased and canceled which had been written by order of Secretary Cox across the last page of the General Land Office record of the patent for the premises called 'Panoche Grande.'

"I must decline to grant your request. In my opinion the Secretary of the Interior has power to correct the record of a patent at any time before its delivery, and perhaps afterwards, so as to make it correspond with the facts. This power is not limited to cases of which he has personal knowledge, but he may act upon the statements and evidence of his trusted subordinates, and upon matters that took place before he became Secretary.

"Secretary Cox having acted upon the subject now before me, I regard his action as conclusive and beyond my power of revision or reversal, even though I should differ with him as to the facts.

"But I do not differ with him. I think the weight of the evidence shows that the patent was not executed by the President.

"I inclose a copy of the opinion of Assistant Attorney General Smith on the subject, and agree with him in the conclusions at which he arrived.

"Very respectfully, your obt. servant,

"B. R. Cowen,
"*Acting Secretary.*

"Wm. McGarrahan, Esq."

Extract from opinion of W. H. Smith, Asst. Attorney General. (*See page* 55 *Land Office Report*, 1871.)

"In the case now under consideration Secretary Cox has acted upon evidence that was satisfactory to him. If he had jurisdiction, (which I think he had,) and erred in his conclusions, it is settled by multiplied decisions of the Attorneys General that you, as his successor, have no power to reverse him. (See opinion of Mr. Wirt, 2 Op., 9; of Mr. Taney, 2 Op., 464; of Mr. Nelson, 4 Op., 341; of Mr. Toucey, 5 Op., 29; of Mr. Johnson, 5 Op., 123; of Mr. Black, 9 Op., 101, 301, 387; of Mr. Stanbery, 12 Op., 358; of Mr. Hoar, of April 26, 1869, and of Mr. Akerman, of March 7, 1871; also United States *v.* Bank of Metropolis, 15 Pet., 401.)

"In view of these authorities, if I differed with Secretary Cox as to the weight of the evidence, I should not feel justified in advising a reversal by you of what he had done: but I do not differ with him. In my opinion, after careful examination of all the light now shed upon the question, *the patent for Panoche Grande was not executed by the President.* Entertaining these views, I must advise adversely to the prayer of McGarrahan. Very respectfully,

"W. H. Smith,
Assistant Attorney General.

"Hon. C. Delano,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *May* 7, 1872.

SIR: I inclose herewith a copy of the opinion of Hon. Walter H. Smith, Assistant Attorney General, in the case of Maxwell J. Lattimer, William H. Maloney, and John Barker *v.* The Burlington and Missouri River Railroad Company, involving the right to portions of township 71, range 38, Council Bluffs, Iowa. I concur in the views set forth in the opinion, and therefore affirm the decision, and herewith return the papers accompanying the letter of your predecessor, under date of July 21, 1870.

Very respectfully,
B. R. COWEN,
Acting Secretary.

Hon. WILLIS DRUMMOND,
Commissioner General Land Office.

DEPARTMENT OF JUSTICE,
OFFICE OF ASSISTANT ATTORNEY GENERAL,
WASHINGTON, D. C., *May* 4, 1872.

Hon. C. DELANO, *Secretary of the Interior.*

SIR: I have examined the case of Maxwell J. Lattimer, William H. Maloney, and John Barker *v.* The Burlington and Missouri River Railroad Company. * * * * * The certification of these tracts to the State is thus shown to have been the result of a deliberate judgment of officers, clothed for certain purposes with judicial powers, and acting within the scope of their authority. As such it binds the department, according to the well-recognized principle of law, that the judgment of any tribunal acting judicially, and within the scope of its jurisdiction, is conclusive until reversed by a direct proceeding, and cannot be impeached collaterally. Elliot *v.* Paschal, 1 Pets., 340; Wilcox *v.* Jackson, 13 Pets., 511.

I am clearly of the opinion that the construction given to the act by your predecessor was an erroneous one, and I have before intimated that a different rule is now applied; but the remedy in a case of this kind is not to be had by collaterally attacking the prior decision before the same tribunal in which it was made, but by recourse to a court of equity, to cancel and annul patents or certificates so erroneously issued.

This is an admitted source of equity jurisdiction, and affords the Government ample relief in a case like the present. (United States *v.* Stone, 2 Wall., 255.)

Sound policy, as well as legal principles, forbids the adoption of any other rule than the one I recommend. It is of the utmost importance that titles given by the department should rest on a firm and substantial basis; that they should be accepted and recognized as final adjudications by the department of the rights on which they are founded; that persons holding these should be secure in their possessions; and that the public generally should have confidence in their stability. This result can never be obtained if decisions once made by the department, upon full consideration of all facts, and within the scope of its authority, are made subject to review by the same tribunal upon a change in its officers.

Such a practice would render insecure every title from the Government, and encourage controversy and litigation.

I recommend, on the grounds and for reasons set forth, that you affirm the decision of the Commissioner rejecting the claim of the appellants.

Very respectfully, W. H. SMITH,
Asst. Att'y Gen'l.

"The acts of your predecessor were done by an authority and jurisdiction equal to your own, and to set aside an act done by authority, competent in law, is the exercise of superior authority. Yours being equal only, you cannot do it." (5 Opinions of Attorneys General, 668, J. J. Crittenden.

We have been informed that since the decision in this case, of June 15, 1870, by Secretary J. D. Cox, defining the exact eastern line of this rancho, and ordering a survey to be made accordingly, some of the settlers on the Government land east of this line have made valuable improvements on the lands occupied by them, on their faith in the finality of said decision. Where the property of third persons is involved in a case like this, it has been decided that the Secretary of the Interior is powerless to reverse the decision of his predecessor, (15 Peters, 400, 401; 5 Opinions Attorneys General, 244; 7 Opinions, 700, 701,) otherwise the decision of one Secretary would become a snare and a trap to inveigle honest innocent persons into making immense improvements on land that might be taken from them, and they completely ruined, and, with their families, turned out of their homes years after they had gone on in good faith, acting under the first decison.

James F. Stuart,
Attorney for the Settlers.

APPENDIX.

Letter of Hon. Caleb Cushing on the meaning of the Spanish word "*estero.*"

WASHINGTON, *November* 24, 1871.

DEAR SIR: I proceed, in accordance with your request, to communicate to you some explanation of the meaning and uses of the Spanish word "estero."

I. I begin with citation of what is contained in various dictionaries, in reference to this word.

1. The dictionary of the Spanish Academy (Diccionario de la Lengua Castellana por la Academia Española) defines the word as follows:

"Caño ó brazo que sale de un rio y que participa de las crecientes y menguantes del mar con lo que á veces es navegable."

In English, literally:

"Channel or arm which issues from a river, and which participates in the rise and fall of the sea, with which it is *sometimes* connected by navigation."

This definition is manifestly defective, because it presupposes that an "estero" is necessarily a branch or continuation of a river.

2. The Spanish Dictionary of D. Vicente Salvá, (Nuevo Diccionario de la Lengua Castellana,) edition of 1863, which contains numerous additions to the dictionary of the academy, with special reference to expressions in use in Amreica, to the particular definition of "estero," given to the academy, adds the following:

"El estrecho de tierra á que se extienden las mareas que entran en un rio ó en un recodo de la costa del mar."

In English, literally:

"The stretch of land to which extend the tides, which enter into a river, or into a bend of the sea-coast."

This latter definition tends to show that the word "estero" does not necessarily imply a body of water, either standing or current, or actually connected by navigation with a river, or with the sea.

3. Constancio's Portuguese Dictionary (Novo Diccionario Critico e Etymologico da Lenqua Portugueza) defines as follows:

"Esteiro * * braco de rio ou de mar estreito, que entra pela terra, dando ás vezes voltas, e circumdando porçâo do terreno de maneira a formar ilha, na enchente da maré, ficando parte em secco na vasante."

In English, literally:

"Narrow branch of river or sea, which enters into the land, sometimes turning around and surrounding a portion of the ground in manner to form an isle at high tide, remaining in part dry at low-water."

This definition is pertinent, seeing that the Spanish and Portuguese languages, although differing in many respects, as to grammatical forms, spelling, and pronunciation, are in substance *radically* the same.

4. The latest Spanish and English dictionary in use in the United States, that of Meadows, translates "estero" as follows:

"Estero: sm. Salt-marsh; lake * *; small creek."

5. The Spanish and English dictionary of Neumann & Barretti translates as follows:

"Estero: sm. A large lake. * * A small creek, into which the tide flows at flood tides."

6. A later edition of Neumann & Barretti, that of Seoane, by Velazquez, in common use in the United States, translates as follows:

"Estero: A large lake near the sea; a salt marsh. * * A small creek, into which the tide flows."

This definition is manifestly erroneous, in so far as it introduces the adjective "large" as one of the qualities of an "estero."

It is also defective, in assuming that an "estero" is necessarily of direct *sea* origin or communication.

Otherwise it comprehends the essential, but diverse, conditions in which an "estero" may exist; that is, either of a creek, a lake, or a marsh.

7. Vieyra's Portuguese and English Dictionary, in fact, omits the two diverse conditions of either running or standing water, and defines as follows:

"Esteiro. sm. A salt marsh."

II. In resumiug and comparing these various definitions, we perceive that three ideas of local formation enter into the name "estero," namely:

(*a*) A creek.
(*b*) A lake, (or pond.)
(*c*) A marsh.

Different as these ideas may seem on the surface to be, they are intimately connected together, as the suggestive stages, through which the same natural formation does or may pass.

Supposing the locality is on the coast, then, by the action of running water on the one side, and of the sea on the other, a creek comes to exist; afterwards, by the action of tides and winds, a sand-bar is raised at the mouth of the creek, and a lake or pond takes the place of the creek; and, finally, if this obstruction grows to be permanent, then the lake itself is gradually filled up by accumulation of mud, and its place is occupied by a marsh.

All these changes are familiar, as facts, to any person acquainted with flat sea coasts, and they commend themselves to reason as well as to observation.

Other modifications of the general facts occur.

Thus, a depression or surface basin in the earth, at near proximity with the sea, may be filled at the rise of the tide by overflow of the seaward rim of the depression; and then, at full tide, the water in the depression will be connected with the sea. That is an "estero."

Or the seaward rim may be too deep to admit the overflow of the tide, but it may be filled by the sea breaking over the intervening obstacle under the impulsion of tempestuous landward winds. That is an "estero."

The descent of the bottom or the trend of the coast may be such as to prevent occlusion by sea sand, and then it is a creek open to the sea. That is an "estero."

Or the formation of inland water may be sometimes closed in by the sand, and sometimes not. That is an "estero."

Or the body of inland water may be permanently closed up by sand or by reefs. That is an "estero."

Or the body of water once existing may be completely filled up with mud and constitute a marsh. Still it is an "estero."

Of course, it would be contrary to reason, to the natural facts, and to the established signification of the term, to suppose that, in order to constitute an "estero," it must necessarily and at all times have a navigable channel to and from the sea. It may have a permanent navigable communication with the sea; it may have one, at every high tide, and then only; it may have one not at every high tide, but only at occasional spring tides; or it may have ceased to have communication with the sea at any time. Still it is "estero."

III. The foregoing observations apply in terms to an "estero" on the sea-coast. Such an "estero," if containing water, will generally contain salt water, and may be fit for salt works; but this may sometimes, although rarely, turn to fresh, or at least brackish, water, if permanently separated from the sea, and subject to the continual inflow of fresh water. And if, on the contrary, filled up so as to constitute marsh, it will be salt marsh.

But an "estero" may well be, and often is, the immediate dependent of a fresh-water river, and not of the sea. I am well acquainted with such "esteros" in various parts of Mexico, and notably on the banks of the Rio Bravo del Norte. In such cases, the stages of natural formation are similar to those of the sea-coast, but subject in less degree to violent vicissitudes.

IV. If it be objected that these explanations of the word "estero" involve shifting conditions, the answer is, first, that the natural formation, designated by the word, is a shifting one; and secondly, that, although, if language were a manufacture and not a growth, we might have words for each modification of the general fact, that is to say, names for all the varieties or species of the thing "estero," still the non-existence of such variety or specific names does not detract from the comprehensiveness of the generic name, which popular common sense applies to facts observed, and which science of necessity accepts.

Similar conditions of diversity exist in the names of other natural objects.

What, for instance, is a river? The common definition says: "A stream of water flowing in a channel on land toward the ocean, a lake, or another river." But many rivers do neither: some flow into and are lost in a chasm of the earth; some gradually waste away in a broad expanse of sand or of swamp.

What is a lake? Commonly said to be standing water in a depression of the earth. But lake St. Croix and lake Pepin are but local expansions of the river Mississippi. And it would be difficult to distinguish in essence between the great lakes of the United States and the River St. Lawrence. At any rate, a lake may well exist which has communication with the sea; and a lake may exist which is at all times and forever inclosed and land-locked.

So of the word lagoon, in English, corresponding to "laguna" in Spanish: which Webster defines to be "a marsh, shallow pond, or lake, *especially one in to which the sea flows.*" Here we have the same diversities of meaning as in the case of "estero." And yet Webster mentions but a part of the facts entering into the idea of "lagoon." For lagoons unnumbered and almost innumerable exist on the earth, which are filled only by the diluvial rains of the tropical regions of America, and become waterless and dry when those rains cease. (Sanchez de Bustamente, Geografia Universal, tom 2, p. 393.)

In fine, for the facts of physical geopraphy, infinitely diversified as they are, we possess but a very imperfect nomenclature in the Spanish language any more than the English, although both are among the most copious and capacious languages of Europe.

V. To complete these explanations, a few words may be requisite on the subject of the Spanish word "estuário," in English "estuary."

1. The definition of "estuário," in Salvá's edition of the Diccionário de la Academia Española, is as follows:

"Estuário: el lugar por donde entra y se retira el mar con su flujo y reflujo."

In English, literally:

"The place by which the sea enters and retires with itsflux and reflux."

2. The received English definition is as follows:

"Estuary:. a narrow passage, as the mouth of a river or lake, where the tide meets the current; an arm of the sea; a frith."

This definition implies *permanent conjunction* of river or lake with sea, as the condition *sine qua non* or essence of *estuary.*

If "estero" implied such universal and permanent conjunction, it would cease to be "estero" and become "estuário." To say "estuàrio" is to exclude "estero," and to say "estero" excludes that necessary and constant intercommunication with the sea which constitutes "estuário."

Inspection of the book definitions of "estuário" and "estuary," as well as of "estero," shows how difficult it is to attain exactness in the knowledge of words by means of mere dictionaries, unaided by observation, of use, or of the actual fact. The dictionary definitions of "estuário" and "estuary," would include "golfo," (gulf,) "bahia," (bay,) and "ensenada," (inlet,) since each of these may be tide-water. having connection with a river; but neither of these last is, *in all its conditions*, "estuário," (estuary;) nor does any one of these fulfill all the various constituents of "estero."

Moreover, "lagunas," like "esteros," are not necessarily connected with the sea, nor of necessity either of salt or fresh water, to the exclusion of the other; nay, many lagoons, though wholly disconnected with the sea, in fact, may be of salt water, like the numerous lagoons in the State of San Luis Potosi, (Hermosa, Geografia de la Republica Mejicana, p. 16;) and so of "esteros."

In short, "estuário" is a conjunction of sea with river or lake, less than a "gulf," (golfo,) and greater than a "creek," (caleta,) but of permanently navigable entrance; while an "estero" is in origin a creek or lake, communicating with the sea, (or a large river,) which is not necessarily navigable to or from the sea at any time, although it may be so generally or casually; and which may be wholly closed up and converted into marsh; which cannot happen to an "estuário."

Neither in English nor in Spanish is the word "estuary" (estuário) a word of local and popular use. Numerous proper estuaries exist on the coast of Norway, but we call them "fiords;" and they occur on the coast of Scotland as "friths;" and in England they fall under the name of "rivers," as in the estuaries of the Humber, the Thames, the Severn, and the Mersey.

Rare as the term is in English, it is still rarer in Spanish. In the admirable geography of Colombia, by D. Felipe Perez (Geografia de los Estados Unidos de Colombia, 2 tom, 8vo.,) the word is not to be found, according to my recollection; nor in the masterly "Derrotero de las Islas Antillas, de las Costas de Tierra Firme, y de las del Seno Mexicano." In each of these works, however, the word "estero" frequently occurs, and in the uses explained in this letter.

The academy supposes that "estero" and "estuario" have the same root—*aestus*. That I doubt. "Ester*o*" is as likely to have relationship with "ester*a*."

However this may be, investigation of the word "estuario," in this connection, is of no advantage, except by contrast, to show that a sea-coast river, lagoon, or creek, in *constant and necessary* navigable communication, cannot be an "estero." I remain, yours, truly,

C. Cushing.

James F. Stuart, Esq.

Decision of Hon. J. D. Cox, Secretary of the Interior, of June 15, 1870, in survey of Rancho Rio de Santa Clara:

"Department of the Interior,
"Washington, D. C., *June* 15, 1870.

Sir: I have received your report in the matter of the survey of the California private land claim called 'El Rio de Santa Clara.'

"The decree of the district court of the United States for the southern district of California, rendered at the June term (1857) thereof, in favor of Valentine Cota and others, confirmed the claim, and bounded the tract as follows:

"'Beginning on the Santa Clara river, in the place called El Paso del Rio,' and thence easterly two and a half leagues to the hill called "De en Medio," on the side of the main road to El Conejo; thence southerly to the sea-shore, between two esteros, three leagues; thence over the plain and along the sea-shore northwest to the river, where there is a cienega, or marsh, three leagues;

thence over the plain and along the bank of the river to the point of beginning, one and a half leagues; stakes being driven in every corner; and is more particularly described in the juridical possession, which is of record in this case, and to which reference is had in aid of said description.'

"A survey has been made by the surveyor general of California, and notice duly given, conformably to the provisions of the act of 1864.

"The only question presented for my determination is, whether the survey in question conforms to the decree. In my opinion it does not, and a new survey and plat must be made.

"There is no controversy or uncertainty as to the initial point on the Santa Clara river called 'El Paso del Rio,' nor as to the line of the main road to El Conejo, but proceeding upon it from such point two and a half leagues would not reach the hill termed 'De eu Medio;' and in executing the decree, the line should be, therefore, prolonged to the western base of that hill, or to post R. C. 16, but not beyond it. In the act of juridical possession it is stated that two and a half leagues were measured, and that a stake was driven as a boundary; and it is alleged by the claimants that post R. C. 17 is at the point where the stake was driven.

"The evidence, however, in regard to the position of that stake is very conflicting and unsatisfactory. The same remark will apply to the second call of the grant, where it is stated that 'a cordel was drawn southerly on the plain three leagues to the sea-shore, between two esteros, in which the stake was driven as a bound.' The line, however, as given by the surveyor, does not run througbout its entire length in the same direction, but diverges at a point called the Sierra de Laguna, and takes a more westerly course. It is said that the line was so drawn to avoid a conflict with a surveyed claim called the 'Rancho Guadalasca.' The extension of the line in its original direction would not, according to all the evidence, strike the sea-shore between two esteros, and it would make the third line upon the sea-shore double the length of that mentioned in the decree.

"The second line should, therefore, run southerly from post R. C. 16 on the 'El Conejo road,' marked on the plat of Deputy Surveyor Thompson in this case, to a point on the shore three leagues distant from the mouth of the river.

"Although the proof as to the precise location of the esteros near that point is not so explicit and decisive as to relieve this part of the case from all question, yet it appears to me that a line so drawn would conform more clearly to the descriptive calls of the decree than if it were run to the terminus insisted upon by the claimant, which is at a point on the shore six leagues from the mouth of the river. The third and fourth lines would, if the second line ran as I have indicated, be strictly in conformity with the calls of the decree.

"The construction of the decree, as marked by the Supreme Court, 'must be governed by the ordinary rules of the common law, as it is the decree of the federal court sitting in a State where the common law prevails.' The general rule is well established in such cases, that courses and distances must, in questions of doubt and discrepancy, give place to known monuments and boundaries referred to as identifying the land. Where there are natural or permanent objects embraced in the calls, they should be clearly and fully identified. In my opinion, such is not the case as to the two esteros, between which the second line was to terminate on the ocean. The proof is more satisfactory that the esteros are situated a short distance from Hueneme point, at or about three leagues from the mouth of the river. By adopting the lines which I have indicated, I think full justice will be done alike to the Government and the claimant.

"The papers are herewith returned, and you will give directions to the surveyor general of California to make a survey conformably to this decision.

"Very respectfully, your obedient servant,

"J. D. Cox, *Secretary.*

"Hon Jos. S. Wilson,
"*Commissioner G. L. O.*"

Equivalents of Lineal Measure.

Inches.	Links.	Feet.	Varas.	Yards.	Chains.	Miles.	Spanish Leagues.	English Leagues.
1.	0.126263	0.083333	0.029965	0.027778	0.001263	0.000016	0.000006	0.000005
7.92	1.	0.66	0.237325	0.22	0.01	0.000125	0.000047	0.000042
12.	1.515152	1.	0.359583	0.333333	0.015152	0.000189	0.000072	0.000063
33.372	4.213636	2.781	1.	0.927	0.042136	0.000527	0.0002	0.000176
36.	4.545455	3.	1.078749	1.	0.045455	0.000568	0.000216	0.000189
792.	100.	66.	23.73247	22.	1.	0.0125	0.004746	0.004167
63,360.	8,000.	5,280.	1,898.598	1,760.	80.	1.	0.379720	0.333333
166,860.	21,068.18	13,905.	5.000.	4,635.	210.6818	2.633523	1.	0.877841
190,080.	24,000.	15,840.	5,695.793	5,280.	240.	3.	1.139159	1.

Note.—The tables of the Smithsonian Institute have the following comparative measure; 1 Vara = 2.78209 English feet; 1,000 Castilian feet = 927 31 English feet; 3,000 English feet = 2.815 Paris feet.

Equivalents of Superficial Measure.

Varas.	Yards.	Chains.	Acres.	Miles.	Span. Leagues.	Eng. Leagues.
1.	0.859329	0.00177547	0.00017755	0.00000028	0.00000004	0 00000003
1.16369865	1.	0.00206612	0.00020661	0.00000032	0.00000005	0.00000004
563.230148	484.	1.	0.1	0.00015625	0.00002253	0.00001736
5,632.30148	4,840.	10.	1.	0.0015625	0.00022533	0.00017361
3,604,672.95	3,097,600.	6,400.	640.	1.	0.14418692	0.11111111
25,000,000.	21,483,225.	44,386.8285	4,438.68285	6.93544195	1.	0.77060466
32,442,056.5	27,878,400.	57,600.	5,760.	9.	1.29768226	1.

Hon J. M. Days

With compliment of the
Author

9

RECLAMATION
OF
MARSH AND SWAMP LANDS,
AND
Projected Canals for Irrigation
IN
CALIFORNIA:
WITH
NOTES ON THE CANAL SYSTEMS OF CHINA,
AND OTHER COUNTRIES.

ADDRESSED TO THE LEGISLATURE OF CALIFORNIA,
By J. ROSS BROWNE.

SAN FRANCISCO:
ALTA CALIFORNIA PRINTING HOUSE
529 CALIFORNIA STREET,
1872.

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RECLAMATION

OF

MARSH AND SWAMP LANDS.

THE AGRICULTURAL INTEREST.

It will not be questioned that agriculture is the most important interest of California. Very few who came here in 1849, and indeed many years later, anticipated the change which has taken place in this respect. The opinion that mining would be the leading interest prevailed long after it became known that agriculture was a promising source of wealth. There has been a gradual decline in the production of the precious metals since 1853, at which time the estimated yield of the mines was $57,000,000; the average yield during the past five years has not exceeded $25,000,000 per annum. The cause of this decline may be found in the withdrawal of population to adjacent States and Territories, and in the change from surface to quartz mining, and the consequent necessity for capital. But the history of all mining countries shows that agriculture and manufactures become ultimately the most permanent sources of prosperity. Baron Humboldt, whose enlarged experience of various countries, profound learning and careful habits of research, entitle his opinions to universal weight, says that "the influence of mining on the progressive cultivation of the country, is more durable than the mines are themselves, and that the produce of the earth derived from agriculture is the sole basis of permanent opulence." Nor is this a modern axiom, derived from the experience of Christian nations; for, according to Sir John Francis Davis, it is a principle laid down in the Book of Mencius, that "The ground is the original source of all wealth, and the principal subject of taxation. Agriculture, therefore, is called the *root*, and manufactures and trade the *branches*, and hence the higher honor and attentions bestowed upon the former." In no country is the pursuit of agriculture more honored than in China, where even the Emperor himself, the Son of Heaven, takes a hand at the plow on the occasion of the great annual festival at Peking, thus giving a practical illustration to his people that, however high the station, no discredit attaches to the cultivation of the earth.

The capacity of this State to sustain a large number of inhabitants is undoubted; yet, with all our advantages, and starting with a sudden influx of intelligent and energetic people from all parts of the world, we now, after twenty-two years experience, find ourselves with an aggregate population of less than four to the square mile; while the remaining States and Territories of the Pacific slope contain an aggregate of less than one to the square mile. Belgium, as shown by official data, contains three hundred and eighty-eight; and there are provinces in China which support eight hundred. Will it be denied, then, that we need population?

The expectation that population would flow into the country the moment the Central Pacific Road was completed, was unreasonable. It requires time and knowledge of the country and its resources to bring about so important a change. During the past few years much of this knowledge has been obtained, and it now only remains to offer the requisite facilities for intercommunication and settlement to fill up the country. Much may be expected in the future, if we adopt an intelligent course of action. An industrious and energetic people, such as we desire, will settle where they can obtain at cheap rates lands suitable for cultivation, and where they can be within reach of the refining influences of churches, schools and public libraries. Without improved systems of agriculture and the usual accessories of intercourse in a civilized country, these advantages cannot exist. It is a public duty, therefore, to give all possible encouragement to so beneficent an enterprise.

IMPORTANCE OF IMMIGRATION.

For more than twenty years this has been a subject of newspaper discussion; yet up to this time there has been no organized effort, on an adequate scale, to meet the requirements of the situation. Whenever a plan has been suggested, it has been a signal for abuse of the originators and disparagement of the system proposed. Iowa, Wisconsin, Kansas, Nebraska and other new States have been steadily advancing in wealth and population, while California has remained nearly stationary.

The total area of the eight States and Territories forming what is called the Pacific Slope, is 903,019 square miles. The total population is now about 850,000—less than one to the square mile. The New England States, omitting fractions, have 49; the Middle States, 69; the Southern Coast States, 15; the Western Central States, 20; the Northwestern States, 22; and Texas, 2. The density of population in Europe and other foreign countries, is estimated as follows: Russia in Europe, 28; Austria, 141; France, 172; England, 332; Great Britain and Ireland, 225; Prussia, 151; Spain, 78; Turkey in Europe, 73; Sweden and Norway, 15; Belgium, 388; Portugal, 95; Holland, 259; Denmark, 101; Switzerland, 160; Greece, 55; Mexico, 7; Central America, 18.

It will thus be seen that while the population in the Pacific States and Territories is less than one to the square mile, some of the countries of Europe exceed 300, as, for example, England, 332; Belgium, 388.

The resources of a country are intrinsically valuable in proportion to the facilities existing for their development. Without abundant labor the natural wealth of the State is of no avail. This is a question of general as well as of local interest. It has been a prominent subject of discussion for years past; and a bill is now pending before the Legislature, for the express purpose of securing State aid to encourage immigration. None will deny that the growth of California in population and wealth during the past ten or fifteen years, has been slow compared with that of the new States east of the Rocky Mountains. A reason for this may be found in the general apathy which has prevailed until recently on the subject of local improvements. There has been no concert of action to promote any measure for the public good. No inducements have been held out to settlers. On the contrary, a policy of "masterly inactivity" has been pursued, which has not even subserved individual interests. The natural advantages afforded by a fine climate and a prolific soil, have failed to inspire a just appreciation of the benefits to be derived from co-operation in enterprises of a public character. California shows but little, if any increase in population during the past ten years. To some extent, the decay of placer mining and the drain upon our population from adjacent States and Territories, may account for this; but sufficient time has elapsed since agriculture, commerce and manufactures have been placed upon a permanent footing, to remedy these drawbacks, had there been any intelligent action to encourage settlement.

All the energies of a people individually the most energetic in the world, have been devoted to wild and hazardous speculations; and it is only within the past few years that special attention has been given to the development of agriculture and other industries likely to be more permanently prosperous than mining.

It has been well said that the inhabitant of a mountain region must go into the valley and look back before he can form an adequate conception of the outline of his mountain home, the local features of which are so familiar to him. I sometimes think we cannot realize the true condition of our own State until we go beyond its boundaries and take a view from the outside. We must see the progress of other countries and witness their rapid advancement in wealth and population, by means of intelligent enterprise, before we can realize that the gifts of Providence have not been appreciated on this Coast. What does the stranger, direct from the great marts of commerce in Europe and the Atlantic States, see on his arrival here? A State with considerable brain, but with a shattered nervous system and scarcely any body—a startling spectacle of premature imbecility—a commercial metropolis comprising one-fourth the whole population, in a state of collapse, with all the outer members paralyzed for lack of the sustenance to be derived from an abundant supply of labor.

What is it makes a civilized State rich and prosperous? Not its veins of gold and silver, not its rich soil, not its capacity for production, for in that case California would have made rapid strides in the last ten years. These are elements of wealth, but they have existed here for countless centuries. Population and labor are required to wrest from the earth its hidden treasures—to create a demand and to furnish a supply.

Frederick Kapp, Commissioner of Immigration for the State of New York, estimates the average value of an immigrant to be $1,125. Dr. Engel, Director of the Prussian Statistical Bureau, estimates the loss to Prussia in sixteen years by an excess of 180,944 emigrants over immigrants, at 180,000,000 thalers, and says that "a ship loaded with emigrants is often looked upon as an object of compassion; it is nevertheless, in a politico-economical point of view, generally more valuable than the richest cargo of gold-dust." Governor Haight says in his last official message that "the importance of inviting and facilitating the immigration of a farming population from the Eastern States and Europe has been felt by all intelligent men in California, and was presented to the Legislature at the last session for their consideration and action. No part of the world offers inducements to such immigration equal in all respects to the Pacific Coast of the United States." But they have not come, and why? Because there has been no organized effort to attract them—no facilities afforded them to meet the cost of transportation; no available lands; no seeds, provisions and agricultural implements provided for them on their arrival.

Local associations, depending upon charity for an existence, will not supply the deficiency. What we need is organized capital judiciously applied in establishing the foundations of a system that will endure and extend for years to come; furnishing lands and supplies, stretching forth its ramifications across the Continent into the densely populated States of Europe, to inform, to invite and to assist; a medium through which a fractional part at least of the millions now struggling for a bare existence may find homes awaiting them on the unpeopled shores of the Pacific. Well might we follow the example, in this respect, of the despised Chinese. Nearly every Chinaman landed in San Francisco costs the Hongkong or Canton Emigration Societies an advance of seventy-five dollars for an outfit, passage and expenses, to which a profit of twenty-five dollars may be added, making one hundred dollars indebtedness. This is faithfully worked out, the agents of the Companies here generally providing employment. Are we less enterprising than the Chinese that we should not adopt suitable means to meet our necessities? If we want people of our own race and color, who will make good citizens, we should encourage them to come here; and this is the main feature of the present enterprise.

ANGLO-AMERICAN SYNDICATE.

The undersigned desires to present for the consideration of your honorable body, some facts relating to an important enterprise recently projected by an Anglo-American Syndicate in London. The primary objects of the Syndicate are:

1—To secure by conditional agreements or absolute purchase, large tracts of marsh, swamp and overflowed lands in the State of California.

2—To form a Company in London, with a Board of Management in San Francisco, (the capital stock to be at least $5,000,000) for the purchase, reclamation and utilization of these lands.

3—To render such lands when improved, a source of profit to the State as well as to the company, by dividing them into small tracts and encouraging settlement upon them by sales at low prices and on easy terms of payment; by leases on shares of the crops, by direct cultivation on well organized systems, and by all other legitimate means that may be suggested by experience or by a community of interests.

4—To facilitate immigration to California, and thereby enhance the value of the lands, by providing passages for farmers, laborers, artizans and other industrious classes from England, Holland, Germany and elsewhere, and furnishing them on their arrival with homes on long credits and at low rates of interest, and by making all necessary advances of provisions, seeds and agricultural implements, to enable them to meet the exigencies of the first year, and ultimately acquire such proprietary interests in the lands as they may desire.

These are the general objects of the Syndicate. It is no part of their plan to hold large tracts of lands for speculative purposes. They conceive that their interests will be best subserved by encouraging the occupation, cultivation and settlement of the lands in question, and by promoting the general interests of the State.

The Board of Directors in London will probably consist of Mr. E. B. Eastwick, M.P., Admiral Sir John Hay, Mr. A. P. Longbotham, and other prominent gentlemen; and the Board of Management on this coast, of ex-Gov. H. H. Haight, and Messrs. Milton S. Latham, R. B. Swain, Cornelius Cole, John B. Felton, William Blanding and W. S. Campbell, with Gen. B. S. Alexander and Mr. John D. Hoffman, as Consulting Engineers. The enterprise has received strong indorsements from the above gentlemen, as well as from Mr. William Alvord, Mayor of San Francisco; Mr. George F. Hooper, President of the Gold Bank; Mr. Booker, the British Consul, and others. With such influences, it can scarcely fail to prove a brilliant success. The official record of Governor Haight is creditable alike to himself and to the State. In the bitterest conflicts of partisan warfare, his integrity has never been questioned, and whatever he indorses may be regarded as sound, safe and legitimate. Mr. Latham has occupied the highest position in the gift of the people next to the Presidency, and has discharged every public duty with marked ability and fidelity. As resident manager of the London and San Francisco Bank, his name is potential in the financial circles of Europe. All the other gentlemen mentioned are well-known and highly respected, both in California and elsewhere.

PROFITS TO THE COMPANY.

The anticipated profits to the Company will be derived in part from the direct cultivation, on a comprehensive scale, of lands remaining unsold; from leases, rents and sales of tracts suitable for immediate settlement; and in part from the growth of towns, villages and local improvements; from the progress of railroads, canals and other facilities for travel and transportation; from the general advancement of agriculture, commerce, and manufactures;

and from the increase in the value of property throughout the State. As a principle, whatever has a tendency to promote the general prosperity and augment the rewards of labor, must give stability and profit to the investment of capital in legitimate enterprises. Where the direct result is to increase the area of production, it is reasonable to anticipate that an investment in lands at the present low prices, will prove both safe and lucrative.

The members of the London Syndicate have manifested their faith in the proposed enterprise and in the future of California by sending to this coast for the examination of the lands and completion of the necessary arrangements, a Commission, consisting of the Hon. E. B. Eastwick, Companion of the Bath, and member of the British Parliament, J. F. Dalymple Hay, Esq., a Civil Engineer, and the Hon. W. S. Campbell, formerly United States Consul at Rotterdam, a resident of Holland for twenty years, and thoroughly familiar with the reclamation systems of that country.

EXAMINATION OF THE LANDS.

These gentlemen arrived in San Francisco about two months ago. So well disposed was our Government to extend to them every courtesy, that, in consideration of their official standing, the Secretary of State, upon being advised of their arrival, and the object of their visit, procured from the Secretary of the Treasury authority enabling the Collector of Customs to place at their disposal the United States revenue cutter. After an inspection of the shores of the Bay in the vicinity of San Francisco, they availed themselves of the use of the cutter to visit Vallejo, Suisun Bay, Sherman Island, and other points of interest, and returned highly pleased with all they saw. They were especially impressed with the value of the marsh lands, to which their attention was directed, the feasibility of reclaiming them at a moderate cost, and the extraordinary fertility of the swamp and overflowed lands, already reclaimed and available for reclamation in the delta of the Sacramento and San Joaquin. Subsequently the Commission divided, and a careful inspection was made of the tule, or swamp lands, in the valley of the Sacramento and in the vicinity of the Tulare Lake; and having obtained the opinions of competent engineers, familiar with the country, and satisfied themselves as to the feasibility of reclaiming these lands at a comparatively small cost, and the immense profits to be derived from the proposed enterprise, they at once telegraphed to London, strongly endorsing the scheme and urging the immediate measures necessary for the organization of the Company. Elaborate reports to the same effect, accompanied by maps, estimates, statistics, etc., were subsequently forwarded by mail, and Mr. Eastwick and Mr. Hay, having satisfactorily concluded their labors, returned to London. Mr. Campbell, in accordance with instructions from the Syndicate, remains to assist in carrying into effect the general plan of operations.

AREA OF LANDS.

The Surveyor-General of California, in his last report to the Legislature, estimates that there are about 3,000,000 acres of swamp and overflowed lands in the State. If it were all reclaimed and under cultivation, it would, in his opinion, produce more for a given number of years, than all the rest of the land in the State together. To his personal knowledge, eighty bushels of grain to the acre were raised on reclaimed swamp land this year, and he considers it safe to say, that the average of the whole, if cultivated, would not fall short of fifty bushels per acre. In view of these facts, he recommends that the Legislature shall give aid and encouragement to the reclamation of this class of land.

The total amount of marsh and swamp lands secured to the Syndicate by bonds and agreements up to this date is about 250,000 acres, of which about 50,000 acres consist of salt marshes on the Bay of San Francisco and its branches; the remainder being fresh-water lands, about equally divided between the valleys of Sacramento and San Joaquin. Arrangements are in progress to secure about 50,000 acres more; making in all some 300,000 acres, now unproductive, which it is proposed to reclaim in a complete and substantial manner, by embankments, canals, dykes, ditches, and water-gates, in accordance with plans recommended by competent engineers. But the operations of the company will not be limited to the reclamation of their specific tracts, which are simply designed to form the nucleus of a system comprehending most of the lands of this character in the State.

It was the original desire of the Syndicate to effect this beneficial purpose by co-operating with the owners; the lands to be put in against the capital required for reclamation, and an equitable division of the profits to be made in the future; but finding it impracticable to make such an arrangement, the agents of the Syndicate were constrained to adopt the system of direct purchase, thereby assuming all the risks and responsibilities. The general objection urged against enterprises of this kind is, that the tendency is to create landed monopolies, and to prevent free competition in the settlement and cultivation of lands donated to the State for the public benefit. Respecting the lands in question, it may reasonably be answered that there has been no prohibition to their cultivation or settlement during the past twenty-one years, and yet they remain for the most part precisely as they stood in 1849. Free competition has never been discouraged either by Federal or State authority. The Congress of the United States, on the twenty-eighth September, 1850, donated these lands to the State of California. By Act of the Legislature, in 1855, amended by Acts of 1858 and 1861, they were opened to purchase in limited quantities by whomsoever might choose to enter them according to the provisions of the law. It was found that individual enterprise was unable to accomplish the work of reclamation under the restrictions imposed, and in 1868 the Legislature passed an Act authorizing the purchase of these lands without limit as to quantity, the object being to offer such inducements to capitalists and organized companies as would secure to the State the advantages to be derived from the reclamation of large tracts, so as to adapt them to cultivation and settlement. Considering that nothing was done with them before; that since the passage of the Act of March 28, 1868, it has been the privilege of any citizen of the United States to purchase and reclaim as much as he chose to enter and pay for; that no exclusive rights were ever conferred by law; it seems unreasonable to complain that some of our citizens have manifested more enterprise than others in purchasing large tracts of these lands and availing themselves of any advantages that may be derived either from the sale of them or from their reclamation and cultivation. If actual settlers have not had the means to secure and reclaim them, it is fortunate that capitalists have come forward to do that which past experience demonstrates would otherwise have remained undone. Governor Haight although opposed on principle to the monopoly of large bodies of land by private individuals or corporations, very justly remarks in his last annual Message that "in the case of swamp and overflowed lands a system of reclamation may perhaps render their concentration in large bodies in the first instance necessary, and indeed, in the case of uplands, where large tracts have been acquired by purchase, the fault is chargeable to the system and not to those who would avail themselves of it to purchase lands."

COST OF THE LANDS.

The prices at which the lands have been secured by the Syndicate are as low as the owners elected to take for them, and considering the easy terms of payment, and the rapidly increasing value of such lands, cannot be regarded as unreasonable. A single crop of wheat on any specific area, will refund all the money expended in the purchase, reclamation and cultivation. There could scarcely be a better investment, taking into account the enhanced value of the land. If, however, there are equally available tracts to be had in the State at a cheaper rate, and upon similarly favorable terms, there will probably be no difficulty in embracing them within the scope of the present undertaking. The margin of profit would of course be greater if purchases could be made at the State price; but as that is impracticable now, and private individuals are not compelled by law to dispose of their property at cost or at a valuation fixed by others, the purchaser is reduced to the necessity of making the best bargain he can under the circumstances.

VALUE WHEN RECLAIMED.

A few practical examples of results actually obtained will best illustrate the value of these lands when reclaimed.

Twitchell Island, in the delta of the Sacramento and San Joaquin, was purchased by a Kentucky company, who paid for 3,000 acres $25 per acre. By the simple process of burning the tules, scattering the seed in the ashes and tramping it in by running herds of sheep over it, they planted 1,000 acres, which gave them a net yield of wheat amounting to $36,000. Had they planted the whole tract, it would have yielded them, at the same rate, a surplus of $33,000 over the entire cost of the land. As high as seventy-five bushels to the acre was produced on particular parts of the tract, and wherever a fair average test could be made the product was from forty to fifty bushels.

On Sherman Island, some of the lands cultivated in wheat yielded a profit of $30 to the acre, and the average was not less than $25. The members of the Syndicate, on the occasion of their visit, satisfied themselves, by personal observation and by concurrent testimony of the farmers residing on the island, of the truth of these statements. In one instance, brought to their attention, a fourth interest in the crop yielded $16 an acre, and the land is now under lease for a third interest.

At the Mormon settlement, in the Sacramento Valley, an average yield of forty bushels to the acre was produced during the past summer. Part of the land cultivated yielded as high as sixty bushels an acre. The extreme drought of the season rendered even the low alluvial lands less productive than usual, owing to the want of a perfect system of irrigation. This drawback will be remedied in future.

From these examples it is obvious that a yield of forty bushels of wheat to the acre can be depended upon even in seasons of drought. Assuming that only two-thirds of every tract sown in wheat will, for a time at least, be cultivated with care, the average result for the whole would be 26 66–100 bushels, which, at $1.20 per bushel, would amount to $32 gross. The average cost of plowing, seeding, harvesting, sacking and transportation, is about $15 to the acre, leaving, as the net result, $17 per acre, which in most cases, will pay for the land and the cost of reclamation in a single year. But to this may be added, as clear profit, the hay or grain resulting from the volunteer crop after the first harvest—worth, say $10 an acre.

Where crops can be irrigated during the summer, as will eventually be the case on all the swamp lands throughout the State, the annual product will be greatly increased. Two or three alternate crops of different products will not be unusual in a single season. The yield of these moist lands in alfalfa, timothy and the various grasses, is enormous. Five tons to the acre is considered an ordinary crop, while as high as eight tons in a single year is nothing uncommon. At $15 a ton, a very handsome profit can be made from the growth of hay—allowing one-half for expenses of cultivation, baling, shipment, etc.

VARIETY OF PRODUCTS.

So far, I have based my calculations mainly upon the product of wheat, our principal article of export. Barley and other cereals will also be in demand for export and home consumption; but there are other articles of use and luxury for which these lands are peculiarly adapted.

Experiments recently made in the culture of cotton show conclusively that this will soon become one of the great staples of the Pacific Coast. The area of land suitable for the growth of cotton, however, is limited. It requires moisture, heat and comparative exemption from frost. The alluvial lands bordering on the Sacramento above Knight's Landing, and the tule regions of the San Joaquin Valley adjacent to Kern, Buena Vista and Tulare Lakes, will in all probability prove as valuable for cotton raising as the best lands in South Carolina or Georgia. Rice will also be an important product in the lower swamp lands.

The cultivation of the sugar beet and its manufacture into sugar is no longer a problem in this State. The Alvarado and Sacramento factories have demonstrated the peculiar adaptability of our alluvial soils to the growth of this article, and the results of the enterprise are most encouraging. The Alvarado tract has been but recently reclaimed from the salt-marsh, and furnishes the very best quality of sugar beet. The Sacramento tract is similar in all respects to the lands bonded by the London Syndicate.

Tobacco, ramie, sorghum, sugar-cane and a great variety of semi-tropical plants will, as experience shows, flourish in our rich alluvial soils and warm valleys.

SALT MARSH LANDS.

With reference to the marsh lands bordering on the Bay of San Francisco and its branches, the question has been satisfactorily solved as to their fertility when reclaimed. Most of them are so situated that immediately upon the exclusion of the salt water by suitable embankments, fresh water streams can be turned in upon them, and in some instances the leaching process can be hastened by means of flowing artesian wells, as in the case of the Beard tract. These salt marshes have the advantage of exemption from overflow by floods. Situated on the navigable waters of the bay, they also possess a special value from their proximity to the commercial metropolis of the Coast. For grazing and dairy purposes they will be extremely valuable. Instead of importing butter for home consumption, there is no good reason why California should not make this a profitable article of export. Fifty thousand acres of marsh land, thoroughly cultivated in grass, would yield 10,000,000 pounds of butter per annum, which would find a ready market in China, at fifty cents per pound, making a gross yield of $5,000,000. Allowing one-half for cost to the producer and profit to the exporter, the net result would be $2,500,000, or $50 an acre. Nor are these extreme figures, as shown by the experience of Holland and other countries.

According to McCulloch "the rearing of live stock and dairy husbandry in Holland is a much more important source of national wealth than tillage." The export trade in butter, cheese, etc., to Great Britain, India, and China, is very large, and contributes materially to the wealth of that remarkable country. With a territorial area of 7,800,000 acres, 5,310,000 acres chiefly redeemed from overflow, are highly cultivated. The reclaimed lands are exempt from taxes for ten years; and the average value is not less than $300 per acre, while the rents scarcely exceed two and a half per cent. per annum. California, with an area of 98,634,240 acres, has under actual cultivation altogether not more than 2,165,776 acres. The average value of all the land in the State would probably not exceed three or four dollars an acre. If we examine the subject, we will find that Holland teaches us many a lesson of intelligent enterprise, as well as patient industry. Twenty-five years ago, according to a late writer, there were in one of the Provinces "45,000 acres of first-rate mud, aching to be turned into Dutch cheese, for foreign markets, but which was smothered out of useful existence by just as many acres of brackish water twelve feet deep. About the same time there were divers Dutch fingers itching to feel the guilders that 45,000 acres of rich meadow land and pastures would produce, and twenty-five years ago the Government set about relieving that aching itch." The land was reclaimed and immediately sold for eighty to two hundred dollars an acre. It could not now, in all probability, be purchased for $1,000 an acre. Such a spirit as this might well be emulated on the Pacific Coast.

The same writer says: "No other people on earth are provided by nature with that sturdy continuity which enables them to gather solid and fruitful earth, inch by inch, from a roaring, thundering, stormy, encroaching sea. No other people but the Dutch are just fitted by nature to pump, and rake, and shovel a fine productive country out of a cold, sour, reedy marsh.

"Along the greater length of the western coast a line of low sand-hills serves to partially separate the main sea from the Hollow-land, which is somewhat lower in surface; and wherever that line of hills subsides, then the work of the dyke builders continues the separation which the natural wall only half accomplished. Vast lines of earth-banks, from twenty to forty feet in height, and from twenty to a hundred feet in thickness, generally faced on the sea-side with massive walls of brick and stone, have been raked together and maintained at an incomparable cost of labor and watchfulness. Huge dams have been swung across the mouths of rivers to govern the level of their variable waters; and from those dams, which are often the nucleii of great cities, more lines of earth-walls, of all heights below a hundred feet, and of all widths less than a quarter of a mile, stretch away along up each bank of each river, creek, and bayou, and shut them into bounds; give docks and ways to shipping, roads and canals to travelers, forts of defense to cities; give broad fertile plains to an agricultural people; give fruitful happy homes to three millions of intelligent Hollow-landers. Centuries of unremitting care have hardened these main dykes into the most substantial parts of the country; but where it is all so spongy, and so constantly drenched by a moist climate, they will never acquire that solidity which will leave them above the need of attention. The oldest and firmest of the great lines of dykes must still maintain great piles of willow boughs ready for instant application to any opening crevasse; and must still maintain their lines of watchmen—watchmen who can not at all times echo the salutation that one receives from the peasants of the country, nor the cry which one still hears from the night-patrol of the old Dutch cities, 'All's well!' A sudden rush of wind piling the waters to an extraordinary height over some low or softened portion of the separating wall startles a whole country from its quiet.

"As in Constantinople the first alarm of fire calls the water-carriers and spare police, the second the proprietors and officers of State, and the third the Sultan himself to the scene of disaster, so in Holland continued rush of water admits of no idle spectators, but calls every hand capable of wielding a spade or bearing a bundle of rushes to aid in preventing devastation worse than conflagration. Sometimes the sea has proved ungovernable in its caprice, has swept over and retained what was before inhabited country. At other times it has just as capriciously retired from the bounds so carefully built up for its government, and left rich flats of mud to grow up into cheese-producing districts where its waves formerly bore luggers of the produce of other countries. All these sea changes are carefully noted, and assisted or guarded against, as far as possible, by artificial means. Shifting of the sands, or the mud-bars, or the vegetable growth at the bottom of the sea, turns a current against the base of a dyke. If the change seems temporary, a net-work of willow boughs is woven along the face of the dyke for rods or for miles, as the case may seem to demand; rows of stakes are driven in every direction through that network, and basket breakwaters jut at frequent intervals into the aggressive stream. If the aggression is likely to prove permanent and powerful, then strong piles take the places of the slender stakes, and heavy stone and brick walls rise where the willow ones seemed insufficient. If, on the contrary, the water appears inclined to recede instead of advancing, and if the retrocession appears desirable, then Dutch patience and ingenuity assist the rising earth by every mode they can invent. Rows of willow stakes, patches of basket-work, bits of low wall, coax deposits of sand and mud, and the appearance of vegetation. Whenever the reeds begin to appear they are turned to account. The finer patches are cut and cured for the thatching of houses, mills, out-buildings, piles of drying bricks and turf, and for exportation to England. The coarser ones are bound in bundles, the size of a man's body, to assist in the laying of dykes, for the straightening the currents of streams, for retaining in bounds the mud gathered from the bottoms of the canals for manure, and for rotting into a dressing for the land already tilled. Sometimes bars make across the mouths of inlets or bays and leave shallow ponds or lakes of water neither fresh nor so salt as sea-water, to be slowly filled up to tillable height by growth and decay of vegetable matter, or to be dyked and drained as Haarlem Lake was drained a few years ago."

THE BEARD TRACT.

In order to show specifically what can be done with our salt marsh lands, of which there may be altogether 200,000 acres within the limits of the State, I shall refer to a single tract on the Alameda shore, belonging to Mr. E. L. Beard.

This magnificent tract comprises 20,000 acres of marsh land, with a frontage of about fifteen miles on the southeast side of the Bay of San Francisco. The distance to the city of San Francisco from the most central point is twenty-five miles. Vessels of the deepest draught can lie along side the wharf at the proposed town site of Ceralvo, there being at this point a depth of water at low tide ranging from five to eight fathoms. Bay steamers and smaller craft can touch at various points convenient for shipment; and with the proposed improvements each section of the land will be brought within easy water communication with San Francisco. By ferry from Ceralvo, the trip to San Francisco can be made in less than two hours; by railroad from Washington Corners or Niles in an hour and three-quarters. The latter stations are situated on the San José and Central Pacific railroads, and are distant from the nearest points of this tract about four miles.

The soil is a rich clay loam, formed of the debris washed down from the surface of the adjacent Coast Range mountains by the Guadalupe and Coyote rivers, and various smaller streams; also, by the freshets and floods caused by the winter rains. All these marsh lands are formed by the accumulated deposits of centuries, and contain the richest elements of soil from an area of fertile country not less than twenty miles wide by one hundred in length. The whole tract lies about twelve inches above ordinary high tide, and is rarely entirely covered with water. The Coast Survey Chart shows that the mean rise and fall of tides is six feet three inches; mean of spring tides, seven feet three inches; mean of neap-tides, four feet nine inches.

Estimates made by Messrs. Hoffman & Poett, Civil Engineers, show that a first-class embankment can be constructed from San Bruno Point, near San Francisco, to Allen's Landing, north of Alameda Creek, for the sum of $409,322. This embankment would reclaim 48,150 acres of land, which would be worth, when reclaimed, $4,815,000. The average cost of the whole work would be a fraction over $8.50 per acre. The Santa Clara and Contra Costa sections, including the 20,000 acres belonging to Mr. Beard, would comprise 27,974 acres, the reclamation of which would cost $220,950, or a fraction less than $8 per acre. Many owners would willingly agree to give a portion of their lands for the cost of reclamation, or pay their proportion of expenses, with such profit to a company furnishing the capital as might be agreed upon. Under the law, a majority of the owners may petition the Board of Supervisors and cause a reclamation district to be formed, and upon the completion of the reclamation all the owners are compelled to pay *pro rata* their share of the expense. From inquiry made recently, it is more than probable that a petition having in view the reclamation of the lands on the western side of the bay would be almost unanimously signed, provided a company possessing the requisite capital, duly organized and ready to proceed with the work, could be induced to take the enterprise in hand and carry it out in a manner commensurate with the value of the property.

There are local peculiarities which greatly facilitate the process of reclamation. The two principal rivers south of San Francisco—the Guadalupe and Coyote—debouch into the bay, passing directly through the marsh lands. The artesian well system also, which has been found so successful in the Alameda and Santa Clara valleys, continues in full force far down into the marshes. Already several artesian wells have been dug north of Alviso, from which an abundant and never-failing flow of fresh water has been obtained at a depth not exceeding two hundred and fifty feet. All the water thrown to the surface in the San José Valley, where there are some hundreds of artesian wells in operation, finds its way into the Guadalupe, Coyote and other streams, and becomes a valuable element in the reclamation and irrigation of the salt marshes. When the dike is completed, all this water can be thrown over the surface, the salt washed out, and allowed to flow into the bay at low tides, and the land thoroughly freshened in a single season. The winter rains will of course greatly facilitate this leaching process. Irrigation during the dry seasons is of the utmost importance. At these seasons none of the water need be allowed to go to waste. It may be necessary, and in fact I think it would be desirable, to have artesian wells bored at intervals over the entire marsh. A contract can be made to have them bored to a depth of three hundred feet for five hundred dollars per well. Allowing one well to every five hundred acres, this would make a total cost of $20,000. The substratum of the country at that depth is very hard, and the source of supply is so extensive that I think it probable there would be no material diminution in the flow of water from the number of wells. The experiment, however, of five or ten might be tried to advantage. Mr. Beard's artesian well affords a striking test of the utility of fresh water in the reclamation of these lands. Already, in a single season, that portion of land which he has completely enclosed and submerged in fresh water, shows a fine growth of flags, grass and willows, and will be excellent meadow land in another season, even without cultivation.

The reclamation of salt marshes in the vicinity of our large cities has already proved one of the most lucrative enterprises ever undertaken in the United States. In 1866 the New York Land Reclamation Company purchased a tract of 3,000 acres of salt marsh land lying on the Hackensack and Passaic rivers, and Newark Bay, in the State of New Jersey, distant from the City of New York from eighteen to twenty-five miles. For this land they paid $100 per acre, amounting to $300,000 for the tract. The cost of reclamation was $88,880; total cost, $388,880. It was estimated that the land, upon its complete reclamation, would rent for $50 an acre per annum, and be worth not less than $500 an acre, showing a net profit, if sold, of $1,111,120. It was also estimated that by holding it for ten years it would be worth $1,000 an acre. From a recent article in the *Engineering Journal*, of New York, it appears that at the present time, three years from the commencement of the work, the land rents for $100 an acre, and is held at $1,000 an acre, and sales can readily be made at that price. The water front is considered to be worth $2,000 an acre. The net profits from rents and sales within ten years will be upwards of $5,000,000.

If an investment of $388,880, on 3,000 acres of land, produces in three years a net profit of more than $2,000,000, or in ten years a net profit of $5,000,000, in an old and long-settled State, the prospect is at least fair that 20,000 acres of land purchased and reclaimed at a fractional part of the cost per acre, and situated in a new State, destined soon to become one of the most progressive and prosperous in the Union, will yield equally good returns to the capitalist

Extensive tracts of salt marsh lands, similar in many respects to the above, border the shores of Suisun and San Pablo Bays. Napa Creek forms a delta above Vallejo, in which a large area of very fine land of this character is available. In the Petaluma delta are also some excellent tracts, well situated for reclamation. A railroad line has been projected across these marshes which will greatly increase their value.

NECESSITY FOR A TRESPASS LAW.

Experience has sufficiently demonstrated the impolicy of attempting to preserve a special branch of industry when the circumstances under which alone it can be made prosperous have ceased to exist. The history of California since 1849, furnishes a striking example. So long as vast tracts of Government land were available as cattle ranges, the stock business was profitable to those engaged in it. Whether it added materially to the general prosperity of the country is open to question. Even with the advantages of a free range, the number of individuals who could receive benefit from this source was comparatively small. As inducements increased, to supply an augmenting demand, competition became greater, and the ranges correspondingly diminished. Add to this periodical seasons of drought, during which a large proportion of the stock died from starvation; the introduction of sheep, which gradually encroached upon the cattle ranges; the progress of settlement and cultivation; the competition from new sources of supply; and it will be seen that there is a sufficient combination of causes to account for the general depression of the cattle interest. It is the history of all new countries repeated. Since the cession of California to the United States the process of change has been going on. The old Spanish system of stock raising naturally gives way to settlement and the cultivation of the soil. It is impossible that the few can continue permanently to retard the progress of the many. Extensive ranges cannot be maintained where the advance of agriculture gives an enhanced value to the adjacent lands. An equalization of taxes imposes increased burdens upon the stock raiser, which in time compels him to limit and restrict his operations.

The agricultural interest in the rich valleys of the Sacramento and San Joaquin is gradually taking precedence of the old and wasteful system of Spanish cattle raising. Families cannot be excluded from the soil to keep open ranges for cattle. Such a state of things would forever exclude improvement, and keep the country poor. It would be a discrimination in favor of those who own large bands of cattle which they can drive to market, while the poor, who have only their small farms and limited products cannot afford to even fence their lands. Indeed many intelligent men engaged in the stock business see that the time for a change has arrived, and that it is no longer possible to contend against the progress of improvement. Experience elsewhere, guided by a sagacious instinct, points out that the true remedy lies in an adaptation of existing means to altered circumstances. Instead of attempting to perpetuate an obsolete system, they are now improving the breed of their stock, gradually fencing their lands, reducing their ranges to such limits as they can control by purchase or otherwise, and thus intelligently meeting all the difficulties of the situation.

The result of this will be, that their expenses will be reduced; their profits will be more certain; they will be less subject to loss from fluctuations of the season and depreciation of stock, and will hold their interests more directly under their own control. With increased facilities for reaching market, their improved stock will command fixed and remunerative prices.

The necessity for the enactment of a stringent trespass law is apparent. Small farmers cannot afford to fence in their lands, while the owners of large bands of cattle are permitted the free range of the country. California will never attract immigration so long as it remains a cattle range.

There are men among us who persistently oppose railroads, public highways, canals, systems of irrigation and reclamation; who see no necessity for progress of any kind, but prefer, like the Apaches, to be let alone. If the destinies of this State are to be controlled by such men, what will be our condition ten or twenty years hence?

What have they done so far to advance the material prosperity of this or any other State?

The assertion that the southern counties of California are better suited to cattle-raising than to agriculture is disproved by all experience. Persons interested in the preservation of stock ranges, naturally incline to this opinion, but all unprejudiced testimony is against them. There is, in fact, no finer agricultural country in the world than that embraced within the limits of the San Joaquin Valley and the counties of Los Angeles and San Bernardino. The climate is unsurpassed for salubrity, the soils are rich and warm, and adapted to a greater variety of productions than any area of similar extent in the world.

It is true there are seasons of severe drought; but these affect the cattle interest quite as injuriously as the agricultural.

It is now an ascertained fact that the cultivation of the soil, the planting of trees, shrubbery, orchards and vineyards has a marked affect upon the seasons, and mitigates, to a great extent, the effects of drought and frost. This is no longer a problem to be solved. So well understood is it, in the prairie regions of the West and New Mexico, that repeated applications have been made to Congress for assistance in planting tracts of Government land. Failing in this, many of the new States now give bounties in lands to those who plant trees upon open tracts.

A cultivated country is less affected by drought than one which is barren of trees and destitute of verdure. The old theory that these are effects rather than causes of drought, has of late years been abandoned. Exploration of New Mexico, Arizona and the Colorado basin furnishes conclusive evidence that these vast regions were once covered with extensive forests, since the destruction of which they have become in a great part arid deserts. These discoveries have suggested a serious question, now anxiously discussed in the Eastern States, as to the probable result of the destruction of timber, and how far it is likely to be remedied by the compensating influences of agriculture—the fact being accepted that lands deprived of timber and remaining uncultivated must eventually become arid wastes.

There is no doubt the entire State would be benefited by a judicious system of irrigation. As an aid to cultivation and the growth of trees, it would tend to bring about greater regularity in the production of crops.

Fortunately, nature has liberally provided the means of irrigation. The mountain ranges of the Sierra Nevadas abound in lakes and running streams which reach their highest capacity in the season when water is most needed. In May, June and July, the snows melt, and the sources of supply are constantly replenished until the snows have vanished, and then in the season of harvest the main supply can be used for purposes of navigation. It would seem, indeed, as if Providence had provided a vast reservoir, at a convenient elevation, for the express purpose of supplying this want, and that it only required the exercise of man's ingenuity to make it available.

IRRIGATION.

Connected with the reclamation of alluvial lands is the question of irrigation which equally demands the favorable consideration of your honorable body. Several important enterprises, having in view the construction of extensive canal systems, have already been inaugurated in California. Experience has shown that reclamation and irrigation must go hand in hand in order to place our agricultural interests beyond the hazards of droughts and floods.

When placer and hydraulic mining were the prominent industries of the State, there was no lack of energy in adapting these natural auxiliaries to the extraction of the precious metals from their places of deposit. Enterprises of such extent and magnitude as those still to be seen in the mountains have never been even imagined elsewhere, much less carried into successful execution, and this under the most adverse circumstances.

The aggregate extent of mining ditches and canals built in California since 1851, reaches the extraordinary figure of 5,328 miles, at an estimated cost of $15,575,400. Several of these ditches cost from $500,000 to $1,000,000. Many of them were constructed when labor was $8 per day and lumber $100 per 1,000 feet. Of late years, since the depreciation of the mining interest, most of these ditches have ceased to be profitable investments.

The example is cited to show what can be done for the more permanent interests of agriculture and fruit-growing. There is still a portion of the outlay already made which can be rendered available in some of the counties.

It is estimated that the Sacramento and San Joaquin valleys contain about 11,000,000 acres of rich arable lands. Under a judicious system of irrigation, both by the adaptation of mountain reservoirs and streams to this purpose, and by the use of artesian wells, it is difficult to estimate the extent to which this vast area of land could be rendered productive. There is scarcely an acre of the foothills which is not admirably adapted to the cultivation of the grape. With a moderate supply of water, in seasons of drought, all kinds of fruit known to the temperate zone could be grown—olives, almonds, figs, walnuts, peaches, apples, apricots, etc.; and in sheltered situations even the orange, lemon and citron would flourish. Of the valleys generally it is scarcely necessary to speak. All the cereals grow from Red Bluff to San Bernardino with a luxuriance scarcely paralleled in any part of the world; and to these might easily be added tobacco, cotton, sorghum, sugar-cane, rice, and various other valuable products. Imagination can scarcely conceive a richer country, or one abounding in such natural advantages of soil and climate.

To accomplish this great improvement, it is essential that cheap capital should be introduced.

Irrigation is necessarily and inseparably associated with reclamation. It would be of comparatively little use to reclaim from overflow the swamp lands of the Sacramento or San Joaquin valleys, without providing, at the same time, an efficient system of canals and ditches for irrigating them during seasons of drought. The lowlands have an advantage in retaining their moisture to a later period in the season than the uplands: but the experience of the past two years shows that their productiveness is materially affected by drought, and that no reclamation is perfect which does not include the means of irrigation. The swamp lands in the delta of the Sacramento and San Joaquin are very favorably located in this respect. By the action of the tides, they can be irrigated at all seasons, at no greater expense than the cost of water-gates and ditches. Whether a soil composed mainly of peat will prove in the end as rich and durable as the soils of the interior valleys, which are composed mostly of strong black alluvium, is a question not yet determined by experience. My own opinion is, that the islands of the delta will eventually be more valuable for meadow and grazing purposes than for the production of the cereals, although their capacity for the latter has not been surpassed by any land in the State.

There is no antagonism between the two great schemes to which public attention is now directed—reclamation and irrigation. On the contrary, the success of one will materially benefit the other; and we have the most incontrovertible testimony, that nothing adds so certainly and so largely to the wealth and population of a State as the two combined. Systems of irrigation have existed as far back as the history of man extends. In Egypt, the water was utilized for agricultural purposes before the building of the Pyramids: in China, before the birth of Confucius, and on the continent of America, as far back as the records of the Aztecs extend. Cortes and his followers found extensive systems of aqueducts and canals in Mexico, and Pizarro similar works in Peru, the ruins of which may still be seen; and it is known to the writer, from personal observation, that there exist in Arizona the remains of hundreds of miles of irrigating canals and ditches, showing that, long anterior to the Spanish explorations, what are now the deserts of the Gila were flourishing agricultural regions, abounding in populous cities.

The area of land subject to irrigation in Piedmont is a million and a half of acres, of which about one-third is irrigated. The aggregate length of canals is 1,200 miles; and the increased rental due to the system of irrigation is $1,450,000 per annum. The irrigated districts contain an average of 269 inhabitants to the square mile, and show an increase of population of 0,278, against 0,174 in the unirrigated districts.

In Lombardy, the region subject to irrigation embraces an area of 6,500,000 acres, of which one-fifth is irrigated. The aggregate length of the canals and local branches is 4,500 miles; and the increased rental in the Milanese provinces due to irrigation is $1,300,000, and in other provinces $1,450,000 per annum. It is estimated that since these great works were commenced, the expenditure of capital in their construction and improvement has exceeded $400 per acre—extending, however, through a series of several centuries.

In the valley of the Po, embracing portions of Piedmont and Lombardy, one-sixth of the total area, or 1,547,905 acres, is irrigated, giving an increased rental of $4,150,000 per annum. The increase of population in the irrigated over the unirrigated districts is fifty per cent. The districts of Mortara and Vigerano, formerly desolate waters, now rival the province of Milan in fertility and productiveness.

Italy furnishes also some encouraging examples of marsh or swamp reclamation, among which, one of the most prominent is that of the great marsh of Maremma, on the coast of Tuscany. The lake of Castiglione, the greater part of which was formerly a desolate morass, has been so far reclaimed by massive embankments and systematic channels, that the available land within its original borders is now covered with rich corn-fields and luxuriant pastures. There has been a marked improvement also in the health of the district, which was formerly noted for its malarial fevers; and it is worthy of remark, that the same beneficial effects have resulted from the reclamation of other marshes or lands, covered with stagnant waters, in various parts of Italy. In most cases, the proper disposition of the flowing waters which debouch into the low ground is of no less importance than a judicious system of drainage. As soon as active circulation is established, the land becomes warm and productive, and the health of the district is improved.

Among the most remarkable examples of human industry are the canal systems of China. In no part of the world have such wonderful results been accomplished with so limited a knowledge of engineering, and under so many natural obstacles. The traveler who visits this ancient Empire is constantly impressed with the enormous amount of labor expended upon works of irrigation. The inhabitants seem to be an amphibious race—living in water with as much facility as upon land. China proper has a length of 1,474 miles, a breadth of 1,355, a coast line from Hainan to Liatung of 2,500 miles, and contains eighteen provinces, with an aggregate area of 1,348,870 square miles. The population is variously estimated at from 300,000,000 to 400,000,000. Dr. Williams gives the density of population in the eighteen provinces at an average of 268 to the square mile, which would give a total aggregate of 361,497,160 inhabitants. The nine eastern provinces, comprising within their limits the Great Plain, have an aggregate area of 502,192 square miles, with an average population of 458 to the mile. The Provinces of Kiangsu, Nganhwui and Chehkiang are said to contain relatively 850,705 and 671 inhabitants to the mile; nor is this incredible, for, according to Capt. Wilkes, one of the islands in the Fiji group contains 1,000 inhabitants to the mile. With a better climate and more fertile soil than China, the capacity of California ought certainly to reach, without difficulty, a density of 100, which would give, to 154,000 square miles, 15,400,000 inhabitants. There are under cultivation in China 650,000,000 acres of land, being an acre and four-fifths to each inhabitant. In Belgium it is estimated that fifteen-seventeenths of the total area of land is under cultivation, giving two acres to each person, and in England and Wales about the same. The Great Plain of China, comprising the northeast part of the Empire, extends from the Great Wall to the confluence of the river Kan with the Yangtzekiang, a distance of 700 miles, having an average width of 200 miles, and a total area of 210,000 square miles—equal to the Plain of Bengal. Nearly the whole of this vast region is intersected by rivers, canals, and ditches—forming an immense network of irrigating systems and navigable highways, and supporting a population of 177,000,000 of souls. The Grand Canal is one of the most remarkable works in the world. By means of its river connections, it formed, before its partial destruction by the overflow of the Yellow River, nearly a continuous water communication from Peking to Canton, a distance of 1,400 miles. The length of the canal proper is 650 miles. Some of the embankments by which the waters are confined are gigantic specimens of ingenuity and labor far surpassing in extent the works of the Mahometans in Northern India. The Yellow River and the Yangtzekiang drain the greater part of the alluvial plains through which the canal runs, and form the rich delta which supports the bulk of the population. Wherever it is possible to drain the land or turn the water upon it, for purposes of irrigation, the country is checkered with rice, cotton, wheat, and millet fields, with raised embankments and hedges, giving it the appearance of a continuous garden. The Province of Kiangsu, of which Nanking is the Capital, is one of the best watered and most highly cultivated parts of the Empire. Almost every acre is turned to account. Grain, cotton, tea, silk and rice are the staple productions. Nearly every city and village in the province can be reached by canals. In many places the surrounding country is lower than the beds of the canals, resembling parts of Holland, and subject to the same dangers from inundation. Chehkiang is another interesting province, noted for its productions of silk, cotton, lacquerware, etc., and its flourishing cities of Hangchau, Shanghae and Ningpo ; its canals, reservoirs and ditches, and the beautiful and highly cultivated aspect of the country. The neighborhood of Nigpo, which the writer had the pleasure of visiting, a few years ago, resembles a rich and variegated garden ; its terraced hills and plains are scarcely surpassed in rural beauty by the most highly cultivated districts of Germany. The Chusan Archipelago, comprising upwards of a hundred islands, lying outside of the delta of the Yangtzekiang, is notable for its reclaimed salt-marshes extending along the shores. Here we have some very interesting practical results from which to judge of the value of salt-marshes. Each valley, extending down from the mountains, is fronted by a dyke bordering on the beach, which excludes the salt water, and is sufficiently high and strong to withstand the heavy surf which sometimes prevails. Canals and ditches of fresh water, having their source in the mountain streams, are conducted through the marshes, and distributed over them, when necessary. The chief products are rice, barley, beans, yams and sweet potatoes. All the land is cultivated—the terraces extending, in many places, up to the tops of the hills. The whole group sustains a population of 300,000. During a visit to the treaty ports, it was the good fortune of the writer to see many other districts of interest, among which may be mentioned Foochow, in the province of Fuhkien, noted for its vast amphitheatre of cultivated fields, and beautiful system of canals. The entire plain, in the neighborhood of Foochow, is dotted with towns and villages, intersected with canals, and checkered with fields of rice, cotton, indigo and other agricultural products. From the hills, in the foreign quarter, may be seen, at a single sweep of the eye, a district of country, rendered productive by irrigation and reclamation, which sustains a greater population than the entire State of California, the lowest estimate being 600,000 souls.

In the neighborhood of Amoy and Swatow, the country is also highly cultivated, and the same ingenious system of utilizing the waters from the mountains is noticeable. Everywhere the landscape is variegated with a checker-work of rice fields and patches of sugar-cane. The Province of Kwantung, to the south, is one of the richest and most remarkable in China. The grand delta formed by the north, west and east rivers, contains at least three hundred islands, all highly cultivated, and embraces within its area the famous city of Canton. Here are groves of bamboo, orange, and various tropical plants and fruits. Rice, cotton and tobacco are the staple products. The area of country drained by the three principal rivers is not less than 150,000 square miles, of which a large proportion is artificially watered. Intercommunication is carried on by means of canals, which ramify through all the valleys. Few roads are seen, and no carts or other vehicles drawn by animals. A considerable proportion of the population live in boats, and there are thousands of families who derive their sole subsistence from aquatic fowl, mollusca, and fish, and whose ancestors for generations have never lived in a house. Many of their junks and sampans literally swarm with children, presenting the apperance of floating bee-hives.

Some idea may be formed of the careful mode in which the farming population economize space in the process of cultivation, from the manner in which they plant their principal cereals. Usually they sow their wheat, millet and rice in rows, interspacing the plants with varieties which will mature at different periods, and reaping, or uprooting, the crop by installments. Nothing goes to waste. The entire agricultural area of the country is used for the growth of food or such articles as are necessary for human use. There are no meadows or fields set apart for the support of horses and cattle within the limits of the Empire; consequently, the number of work animals is comparatively small. Rice is the staple article of food, upon which the great mass of the population subsist, and they display great ingenuity in its cultivation. The rice districts are minutely subdivided into plats or squares inclosed by small dykes, and intersected by ditches. The water from the irrigating canals is conducted into these and carried alternately from one plat to another, or over an entire series, as occasion may require. Where there is a scarcity of water, the systems of saving by means of aqueducts and tanks are wonderfully effective; and the amount of labor expended in pumping and dipping up the water by hand labor is almost incredible. Treadwheels to which buckets are appended are seen in many parts of the country. Two crops a year are generally produced; and, in order that no time may be lost between the seasons of planting, the water is sometimes turned in and fish culture is carried on—the fish being removed to the tanks or reservoirs when the land is needed. Everywhere in China may be seen the most striking evidence of patient industry and great natural ingenuity. Indeed, with so vast a population, and so limited a trade with foreign countries, it could scarcely be otherwise. The people must work or starve; and with all their labor, famines frequently occur, giving rise to those fearful rebellions against the constituted authorities, which occasionally devastate whole provinces.

IRRIGATION COMPANIES ALREADY IN THE FIELD.

Among the enterprising pioneers in public improvements, to whom we are mainly indebted for the comprehensive systems of irrigation now proposed, special mention should be made of Mr. Orton Simmons, who, in 1852, brought with him, from Chili, a vast amount of valuable experience on the subject of the canal and irrigating systems of South America. Mr. Simmons proceeded soon after his arrival to examine the great valleys of the Sacramento and San Joaquin, and projected much of the work now in process of execution. From 1852 to 1858 he persistently represented to the capitalists of San Francisco the importance of these great works of internal improvements; but it was not until Mr. John Bensley, Mr. Charles Webb Howard, and other able and enterprising business men, took hold of the matter, that the project was fairly estimated and taken in hand.

Mr. Bensley has since that time been one of the most active promoters of the scheme. His connection with the Bensley Water Works, of San Francisco, and other important enterprises, have given him a strong hold upon the public in matters of this kind. Mr. Howard has been an intelligent and zealous supporter of the work, and now enjoys the satisfaction of seeing it in a fair way of being consummated. Mr. Whitcher, of Oakland, made surveys of King's River and the Tulare region, and pressed the matter upon the attention of Congress in 1866; but no action was taken in support of his views. The writer at the same time pressed the matter upon the attention of Congress, in a written communication, and obtained a favorable hearing from the Committee; but it was impossible to arouse an interest in a matter which promised neither spoils nor political advancement.

CALIFORNIA CANAL AND IRRIGATION COMPANY.

One of the most important and comprehensive enterprises ever started on the Pacific Coast is that of the California Canal and Irrigation Company, a branch of which was organized some time ago, under the name of the San Joaquin and King's River Canal and Irrigation Company. The Board of Management has not yet been officially announced, but it is generally known that the chief promoters of the enterprise are Messrs. I. Friedlander, W. C. Ralston, W. S. Chapman, Miller & Lux, Luning, and other gentlemen competent to carry through such an undertaking. The agricultural interests of California have always found a liberal friend and advocate in Mr. Friedlander, who is universally known on this Coast as a gentleman of sound judgment, progressive spirit, and more than ordinary energy and originative capacity. He has already done much to encourage the grain production and export trade of the State, and has been for many years connected with nearly every measure of public utility calculated to promote our domestic industry and commerce with foreign countries. The name of Mr. Ralston gives to the enterprise the strongest possible assurance of success. Wherever the Bank of California is known—whether in Europe, Asia, or America this gentleman is recognized as a leading power on the Pacific Coast. Bold, enterprising, and sagacious, clear and vigorous in mind, gifted with extraordinary administrative capacity, and ever ready to aid in legitimate enterprises, he is universally regarded as one of the representative men of whom California may well feel proud. Mr. Nicholas Luning is generally known in California as a gentleman of liberal and enlighted views, a prominent capitalist, and the originator and promoter of numerous important enterprises. Combined with great sagacity, he possesses more than ordinary nerve and remarkable powers of administration. His success in business has been no accident of fortune, but is due entirely to his own energy and ability. With such influences as these, and the co-operation of the other gentlemen named, this Company presents strong claims to public confidence.

The eastern trunk of the proposed canal line, so far as can be ascertained at present, commences at the southern extremity of Kern Lake, and extends northerly along the Sierra Nevadas as far as Red Bluff, in the Sacramento Valley, a distance of more than five hundred miles. This grand canal is designed both for purposes of navigation and irrigation. It will derive its supply of water from the great western shed of the Sierra Nevadas, comprising an area of more than twenty thousand square miles, drained by Kern, Tule, Cowille, King's, Fresno, Chowchilla, San Joaquin, Merced, Tuolumne, Mariposa, Mokelumne, and various smaller rivers and creeks south of Stockton, and north by the Feather, Yuba, American and Bear rivers. The western trunk will probably commence at Summit Lake, with connections from Kern, Buena Vista and Tulare Lakes, and passing in a northerly direction along the foot-hills of the Coast Range, form a continuous line of communication to Antioch, a distance of one hundred and sixty-three miles; thence up the western side of the Sacramento Valley as far north as Stony Creek, about two hundred miles, deriving its supplies from the watershed of the Coast Range, and from the Southern Lakes. The aggregate length of the two main trunks will probably fall but little short of nine hundred miles. Forty miles of the canal, commencing at Summit Lake, have already been constructed. The area of irrigable land in the two great valleys is estimated to be about 15,000 square miles, or 9,600,000 acres. It is proper to remark that these statements and calculations are not derived from any data furnished by the Company. The writer bases them upon his own general knowledge of the country, and occasional notices which have appeared in the newspapers.

The capital required to carry into effect this important enterprise can scarcely fall short of $20,000,000; but it will be one of the safest, most lucrative, and beneficial investments ever made on this coast. If it should be the means of rendering productive a fractional portion of the uplands now uncultivated, or partially cultivated, and subject to all the casualties of drought, it would enhance the export trade of this State in wheat alone more than $15,000,000 per annum. It would also be the means of encourging the best class of immigration to California, to an extent that could scarcely be equaled, and certainly not surpassed, by any other public measure that could be devised. Such an enterprise is worthy the serious consideration and cordial support of the Legislature; and we earnestly trust, that it will meet with proper legislative encouragement.

Nothing could show more conclusively the practical value of the State Geological Survey than the maps prepared from original surveys made during the past nine years, under the direction of Professor Whitney, the State Geologist. The work has been done with great skill and care, and will compare favorably with the best work of a similar kind done in Europe. Already the sectional maps published have become essential to a knowledge of our mountain and river systems. Without the labors of the survey we would have no data upon which to base any reliable calculations as to the extent of our mineral belts or the area of our water-catchment. A detailed and accurate map of California, such as that in course of preparation and nearly completed by the Geological Survey, is not less important to the understanding and development of our material resources than the elaborate charts of the Coast Survey are to the purposes of commerce and navigation. No intelligent person, gifted with ordinary common sense, will deny that the survey of our coasts, bays and harbors, under responsible supervision, is indispensable to enlarged commercial intercourse. No civilized nation at the present day is without it. Millions of money have been devoted to this great work by the Government of the United States, and no expenditure of public money has proved more beneficial to the commerce of the country. The charts of the Coast Survey bear to commerce and navigation the same relation that the surveys and maps of the Geological Survey bear to mining and works of internal improvement. It would be as hazardous to undertake the construction of any extensive system of ditches or canals without an accurate map showing the area of water-catchment, the elevation and inclination of the mountain ranges, with their ridges and spurs, as to attempt the navigation of our inlets, bays or harbors without the measurements of soundings of the Coast Survey. If Professor Whitney had accomplished nothing more than the accurate delineation of the Sierra Nevada and Coast Range systems, surveyed and defined our mineral belts, furnished to the world the maps already published, and nearly completed the great central map, extending from Owen's Lake to Lassen's Peak, he would merit the gratitude of every citizen, and the unanimous approval of the Legislature. The work is thoroughly and conscientiously done. It would be alike discreditable to the State and injurious to every public enterprise now projected to leave it unfinished. A liberal appropriation should be made to enable the State Geologist to complete his work in a thorough and satisfactory manner. It will prove the best investment of public money ever made by the State of California.

THE LAKE TAHOE AND SAN FRANCISCO WATER WORKS COMPANY,

Organized several years ago, is now vigorously prosecuting its operations in the Sierra Nevada Mountains. The proposed enterprise when first brought to the attention of the public, was regarded by many as visionary and impracticable ; but careful surveys, and actual data since obtained have demonstrated that it is not only perfectly feasible, but that the cost will not exceed the original estimates made by the distinguished engineer, Mr. A. W Von Schmidt. Undoubtedly, the enterprise is gigantic in its proportions, and would be appalling to a less experienced and comprehensive mind than that of Mr. Von Schmidt; but his thorough grasp of all the natural obstacles, his clear elucidation of the principles involved in the undertaking, and the wonderful success which has attended his engineering operations on this coast during the past twenty-two years, have inspired entire confidence in his ability to carry this great work into successful operation. As engineer of the San Francisco Spring Valley, and White Pine Water Works, constructor of the Hunter's Point Dry Dock, and inventor and patentee of the method by which Blossom Rock was removed, Mr. Von Schmidt has achieved a reputation extending far beyond the limits of the United States. That his indomitable energy and vigorous grasp of the whole subject will result in the consummation of this grand work is no longer a matter of doubt. From his late report, it appears that Lake Tahoe is situated at an elevation of 6,220 feet above the level of the sea, and covers an area of 240 square miles. Its greatest depth is 1,500 feet.

The only outlet of the Lake is the Truckee River, which flows during the driest time of the year, in ordinary seasons, 800,000,000 gallons of water per diem, and for some months, during the floods, more than three times that quantity.

To guard against dry seasons, a dam has been constructed by the company, on the Truckee River at the outlet of the lake, with suitable gates, for the purpose of storing the water, by preventing the floods from escaping out of the lake and running to waste, at the same time allowing the necessary amount of water to flow down the Truckee River for the use of mills and manufactories. The lake will fill to the capacity of this dam in one ordinary season. A second dam has been constructed three-quarters of a mile below.

The quantity of water thus stored will be immense, and will be better understood by stating that one foot of water drawn from this lake in a year will give one hundred and thirty-seven million gallons per day.

The lake will be raised by the dam six feet above low water mark or about one foot above high water mark; it will then give six times 137,000,000 gallons, or 822,000,000 gallons per diem, without interfering with the natural or ordinary flow of the Truckee River—that is, after the Lake is once filled to the height of the dam.

To make the waters of Lake Tahoe available, the following work is necessary to be done:

The water from the dam at the outlet of the Lake will flow down the Truckee River, three and three-quarter miles to the company's dam on the river, at which point it is diverted from the river into a canal to be constructed, six miles long, through which it flows to the entrance of the proposed tunnel at Hardscramble Creek, through the Sierra Nevada Mountains. The tunnel by this Hardscramble Creek route is 26,400 feet, or five miles long. The water from the canal enters and flows through this tunnel, coming out on the west side of the mountains at a point a short distance above the Soda Springs on the South Fork of the North Fork of the American River.

For the supply of towns and cities, the water, after leaving the tunnel at or near Soda Springs, on the west side of the mountain, will flow down the granite bed of the American River about twelve miles, where it will be taken from the river and conducted in a suitable canal a distance of about forty miles, to a point near Auburn, in Placer County ,at which point it will enter a reservoir of convenient size, to be constructed for that purpose. Leaving this reservoir, the water will enter a large wrought-iron pipe, and by that means be conducted to the city of San Francisco, via Sacramento, Fairfield, Vallejo and Oakland.

The canal to Auburn will have capacity to carry 100,000,000 gallons per day. The length of pipe from Auburn to San Francisco will be about one hundred and twelve miles, making the total distance of actual line of works to be constructed, to reach San Francisco, one hundred and sixty-three miles.

Estimated total cost of line to San Francisco, $10,000,000. The pipe is calculated to deliver at least 20,000,000 gallons of water per day in the city of San Francisco, at an elevation of three hundred and seventy feet above the city base. Estimated sources of income: from the sale of 500,000,000 gallons of water daily, for one year, for mining purposes only, expenses deducted, $963,326.40; from towns, cities, and mines—from the sale of 400,000,000 gallons of water daily, for one year, for mining purposes, expenses deducted, $746,642.40; from the sale of 100,000,000 gallons daily, for one year, to towns, cities, etc., $576,000—total, $1,322,642. Deduct yearly expenses of line of works for towns and cities, $200,000—total net income, $1,122,642.40.

THE CALIFORNIA IRRIGATION COMPANY

Have in view the construction of a canal, for irrigation and water-power, and the conveyance of water for manufacturing purposes; the canal to extend from the west side of the Sacramento River, near Red Bluff, to Cache Slough, Suisun Slough, and Suisun Bay, with the necessary feeders and branch canals for collecting and receiving the waters of the streams leading into the said river from the Coast Range and Clear Lake, and for using the same to the best advantage for the purpose specified and for irrigating the land between the River and the Coast Range, from the commencement to the termination of the canal or canals. Capital stock, $10,000,000, divided into 100,000 shares. Trustees—J. B. Frisbie, Eugene L. Sullivan, A. H. Rose, C. W. Howard and Charles E. McLane.

LAKE TAHOE AND AMERICAN RIVER WATER COMPANY

Propose to conduct water from Lake Tahoe, by its natural outlet, through Truckee River, or by canal, flume or pipes, as far as Squaw Valley; thence by tunnels or otherwise, through the mountains, about three miles, to the American River, Placer County; to raise the superfices of said lake, and use all water thereby accumulating in the tributaries of said river, from its highest branch to its confluence with the Middle Fork; to construct dams, flumes, or reservoirs in said county, or elsewhere, for the purpose of distributing or using water for mining purposes, irrigation, supplying cities and towns with pure water; to save the snow and rain-water of the valley of the North Fork and all its tributaries by a succession of dams throughout the whole extent of the ditch or canal along the whole divide between the North and Middle Forks of said river; to construct a dam across the lower outlet of Tadpole Lake, lying above Shirttail Cañon Divide, and in other places, for the purpose of holding water in store as a distributing reservoir to supply mines and miners with water for mining, domestic use, and irrigation; to construct a bed rock flume on the Shirttail Cañon Divide, for the purpose of having water for general placer mining; to conduct water from the North Fork Divide over the Middle Fork Divide, on the mining districts of Last Chance, Dead Wood, and to the North Fork and Middle Fork, and Long Cañon, and the mining camps, Battersby's Bluffs, Michigan, Forest Hill, Damascus, Iowa Hill, Yankee Jim, Brushy Cañons 1, 2, 3, 4, and any other mining districts or camps; to sell, let, or dispose of all or any of said water in such quantities, and at such rates or prices as said company may fix; to use any canal constructed by said company for the purpose of navigation, and for carrying freight or passengers for hire, with the right to collect such tolls on said canal or canals as said companies may think proper; to save up and dispose of all water from the melting of snow and natural water-sheds which may be found from Lake Tahoe to Auburn, near to the confluence of the North or Middle Forks, or further. Capital stock, $12,000,000, divided into 120,000 shares. Trustees—Robert Battersby, R. S. Perrin, F. C. Du Brutz, Henry Hughes and S. R. Randolph.

THE TUOLUMNE RIVER IRRIGATION CANAL

Is an important enterprise projected by John Burcham, M. A. Wheaton, and Chas. Elliott, present owners of a dam and water right on the Tuolumne River. These gentlemen propose making an application to the Legislature, at its present session, for authority to enable the people of Stanislaus County to vote upon the question of issuing $300,000 in County Bonds, to carry the work into effect. As a consideration for the issuance of the bonds, the gentlemen named propose to construct from their present dam near La Grange, to the San Joaquin River, two canals, or aqueducts, for irrigation and such other purposes as the same may be useful for; one of the said canals to start from the northerly, and the other from the southerly side of Tuolumne River, and both to be constructed within two years from the date of the issuance and delivery of the first bonds, and to be at least thirty feet in width and not less than four feet in depth from the top of their embankments to their bottoms, or of sufficient capacity to fill a ditch of these dimensions, with a grade of eighteen inches to the mile. Instead of building two canals for the first fifteen miles from the dam, the owners may, if they prefer, build one canal of double the capacity named, from the dam down one side of said Tuolumne River, for any distance not exceeding fifteen miles, and then carry a due proportion of water by any suitable means to some point across the river, from which the other canal may be constructed to the San Joaquin River.

This enterprise, if carried into effect, will be of inestimable value to Stanislaus County. It will render productive at least 500,000 acres of rich valley land, now subject to drought, between the Merced and Stanislaus rivers.

THE CLEAR LAKE WATER WORKS COMPANY

Offer to deliver in a reservoir provided by the City of San Francisco, at an elevation of 380 feet, 40,000,000 gallons of water per day. The Company will give the city the privilege of taking from its sources of supply at Clear Lake, in addition, 260,000,000 gallons per diem,and will construct the conduit from the source of supply to the heights north of Benicia, of sufficient capacity to carry 300,000,000 gallons daily; said water works to be fully completed, conveyed and delivered to the city within two years from the time of signing contract therefor. The city and county to pay, in consideration of building, coupling and furnishing and delivering to the city, the said water works and water, as above mentioned, to pay the Company $8,000,000, as follows: 8,000 bonds of the denomination of $1,000 each, payable in thirty years from date thereof, bearing interest at six per cent. per annum; the bonds to be delivered as the work progresses. The work to be divided into sections, as may be agreed upon, and when each section shall be completed the Company shall receive seventy-five per cent. of such proportion of $8,000,000 of bonds as such section shall bear to the whole number of sections in the works; the balance of twenty-five per cent. to be paid when the works shall be finally completed and delivered to the city. The work shall be done subject to the approval of an engineer selected by the city.

Considerable work has been done during the past year in reclaiming the swamp lands situated in the delta of the Sacramento and San Joaquin, and in the construction of levees on the upper Sacramento and Feather rivers. The depression of the farming interest, caused by the extreme drought of the past season, attracted public attention to the necessity of providing means for the irrigation of our uplands, and the reclamation of the low, alluvial lands subject to overflow. Great activity, therefore, has prevailed in these important branches of industry; and various new companies having these objects in view have been organized.

RECLAMATION COMPANIES ALREADY IN THE FIELD.

The Tide Land Reclamation Company, of which J. B. Haggin is President, and George D. Roberts, Judge Heydenfeldt, Dr. Zeile, Judge Hagar, Robert Watt, and Mr. Newland are prominent members, was organized about two years ago, and has made very satisfactory progress. This company owns one hundred and twenty thousand acres of swamp land in the delta of the lower San Joaquin and Sacramento rivers, embracing the greater portion of Roberts, Union, Grand, Twitchell, Andros, Brannan, and Staten islands, with some large tracts adjoining the uplands. Of these lands, Twitchell Island has been reclaimed, and is now under profitable cultivation. Work is well advanced on Grand Island. Already a substantial levee of forty-eight miles has been constructed on this island, which will be completed in time for the coming season; and considerable progress has been made in the embankment of Brannan and Andros islands and the Russian District. All the new works constructed, up to this date, are very substantial, ranging from twenty-five to thirty-five feet at the base, and from six to nine feet in height, and have borne the severe test of the present high floods in the most satisfactory manner. Very little damage has been done. The problem of levees against floods is considered demonstrated. So far from injuring the prospect of future operations, confidence has been thoroughly established, and the swamp lands never were in greater demand. Bowlder Island, which belongs to a private association in San Francisco, has suffered a slight overflow, owing to the fact that it has only been protected by what is known as a "tide levee;" but no material damage has been done. Sherman Island has a substantial levee of fifty miles, constructed at a cost of $220,000.

Owing to the floods of the past few weeks, a portion of the levee which was in an exposed position and very imperfectly constructed gave way, but the amount of damage done was inconsiderable. Mr. Wm. C. Walker, Superintendent of the Tide Land Reclamation Company, referring to some exaggerated reports in relation to the alleged destruction of levees on Grand and Sherman Islands, says in a recent letter to the *Alta:*

"The looker out from a pass-by steamer on Steamboat Slough might be deceived as to the amount of damage done, from the fact that there are several sections of the work uncompleted, thus giving the water free access over the island. There are also exposed portions that are more or less washed by the waves caused by the steamboats. The levee being new, it is more liable to wash than an old levee would be under similar circumstances. I am confident that I am within the mark when I say that the levees on Grand Island have not been damaged, so far, to the extent of $2,500. The extent of levee on this island now completed is over forty miles.

"The levee has in no place given way by the pressure. Had the work been completed before the storm, the reclamation would have been perfect as against the present flood.

"In regard to the break on Sherman Island, which has flooded a portion of the island, I understand that it will be closed to-morrow. The expense of filling the break ought not to exceed $500. The people on Sherman Island are not concerned as to their safety or the success of their reclamation. The water on the island will not cause any loss of crops or stock, and will soon be drained out by the action of the tides.

"I have recently examined all the principal levees on the Lower San Joaquin and Sacramento rivers, and although there are some of the smaller levees covered by the water, I have seen no damage to any that would exceed a few hundred dollars. In fact, it is a question whether or not the land will not be more benefited than damaged by the floods. The sediment deposited on Grand Island, by the present flood, will amount to several inches, and some of the lower places much more. This will more than compensate for the damage done the levee."

This is remarkable, and shows that when the levees are properly constructed, they are capable of resisting the highest floods. Of course, experience will be gained as works of this kind advance, and any defects that may exist in the present system of construction will be remedied.

It was not anticipated and it would be unreasonable to expect that every contingency could be provided agaiust in the beginning. The rainfall up to date has exceeded that of 1861-2. Railroads, stage-roads, bridges, fences and all sorts of improvements have been swept away in many places throughout the State. It would be strange if new levees in an incomplete condition should alone be exempt from injury. The best possible evidence of the power of properly constructed levees to resist floods is furnished by the City of Sacramento, which in 1862 presented a scene of utter desolation. Since that time proper embankments have been built, and although considerably below the level of the flood, it is now one of the driest cities in California. While Stockton, San Jose and even San Francisco have suffered considerable inconvenience from inundation, no damage whatever has been sustained in Sacramento. It would be as unreasonable to argue that railroads, county-roads, bridges and fences have proved inadequate to the purposes of transportation or protection and therefore might as well be abandoned, because they have suffered some damage in an exceptional season of flood, as to contend that the reclamation of swamp lands is a failure because a few breaks have occurred in imperfectly constructed levees. There is no country in the world where the climate is more favorable and the engineering difficulties less formidable for purposes of this kind than in California. We have no floating fields of ice, no freezing, thawing and breaking up of embankments, as in Holland; no floods laden with forest trees and masses of ice, as on the Mississippi, to contend against; nothing but moderate rains a few months in the year accompanied by genial weather nine years out of ten, and nothing in an engineering point of view that cannot easily be provided against in our worst seasons of flood. If we have neither the courage nor the perseverance to mend a broken levee or improve upon a defective system, let us at least show regard enough for are own interests to invite an immigration from Holland. Men who have wrested a state from the sea and given it wealth and power by their labor and intelligence will not be discouraged by trifling obstacles. With a few willow hedges they would soon protect every dyke, and establish basket factories to pay the expense. A striking illustration of what can be done in this way is furnished by the experience of the late Mr. Colt, at Hartford, Connecticut. Having first purchased at a nominal price a tract of swamp land subject to annual overflow situated on the Connecticut river near Hartford, he proceeded to make an embankment for its protection, under the supervision of competent engineers and practical workmen from Holland. As soon as the work was sufficiently advanced he planted at the base of the embankment a quantity of Irish oziers, or yellow willows, and in the course of a few years when they were well rooted and stocked, he established a basket manufactory, which is now a flourishing and profitable business. His pistol and basket making establishments form quite a considerable town on the reclaimed land. The banks of the river, thus protected are more impervious to floods than works of solid masonry. The roots of the ozier permeate every part of the levee, binding it together so firmly that the fiercest torrents produce no effect upon it.

What is there to prevent us from doing likewise? Nothing, I venture to say, but that mean and jealous spirit of disparagement, which opposes every beneficial enterprise, clogs intelligent legislation, discourages the investment of capital in works of public improvement, and finds its chief gratification in the exaggeration of obstacles and the anticipation of failure.

The cost of reclaiming Sherman Island is estimated at fourteen dollars an acre. From six to eight dollars an acre is considered a liberal estimate for the large islands, higher up in the delta. In the construction of works of this kind, the Sullivan ditching machine has proved quite successful. Fifteen miles of levee have been thrown up by this machine on the old San Joaquin river, and it is considered the best work yet done.

A private association of gentlemen in San Francisco, consisting of William S. Chapman, Thomas W. Moore, Rev. Horatio Stebbins, and a number of others, having located or purchased Grizzly Island, in Suisun Bay, commenced operations about a year ago, and encircled the island by a substantial embankment four feet high, at a cost of $80,000. The work has been completed with the exception of a few small sloughs on the inner side, which will soon be closed. During the past summer, several thousand head of cattle, in a very poor condition, were conveyed to the island, and although a number of them were so reduced by starvation as to be unable to recover, the majority of them recuperated on the swamp grasses and tules, and are now in comparatively good condition. Grizzly Island contains about 12,000 acres, and is considered one of the best tracts of swamp land in the State. It is admirably situated for cheap reclamation, being beyond the reach of floods, and having all the advantages of the tidal system of irrigation. The closing up of a few small sloughs will exclude the brackish water and admit an abundant flow of fresh water to the upper end, which can easily be diffused over the entire surface of the island.

Joyce's Island, on the inner side, is also an extremely valuable tract, and will soon be in excellent condition for cultivation.

In Sutter County, a very important work has been partially accomplished—

the construction of a levee from a point near Knight's Landing to Butte Slough, on the western bank of Feather River. When completed by an extension of the line down the east bank of the Sacramento, it will reclaim and render fit for cultivation, in connection with its drainage and irrigating systems, at least 120,000 acres of as rich land as any in the State. The cost of the levee and dams, so far constructed, amounts to about $200,000. It is to be regretted that a party of lawless persons, supposed to be interested in preserving this fertile tract for a cattle range by preventing its reclamation, armed and disguised themselves during the first heavy rain and cut the levee at Butte Slough. There was no provocation whatever for the outrage. No damage had been done to the adjacent lands, and there was no danger of an overflow. It was a pure act of vandalism, for which it is hoped the perpetrators will be punished. The press throughout the country has been unanimous in condemnation of this outrage; and it is to be hoped the Legislature will, at its present session, pass a law making it a felony to commit such offenses in future. Unless capitalists who invest their money in improvements of this kind are protected from such lawless acts, there will be but little progress hereafter in California. The principle that an irresponsible minority may at any time destroy a great and beneficial work, approved by the great majority of the community, would, if suffered to pass unnoticed, strike a fatal blow at the root of all public improvements. The reclamation of this valuable tract, when completed, will add materially to the agricultural capacity of the State. Great credit is due to Mr. George D. Roberts, for his energy in carrying into effect this great enterprise.

The Sacramento Valley Reclamation Company, of which Mr. William Blanding is President, and Messrs. A. H. Rose, Charles McLane and General Hewston are leading members, have nearly completed the reclamation of 120,000 acres of rich swamp land on the west bank of the Sacramento River, commencing at Knight's Landing. Of this tract, the company own about 36,000 acres, and Mr. Louis A. Garnett about 10,000. A magnificent embankment, four feet above high water mark, has been constructed along the bank of the river, extending from Knight's Landing to the Upper Sycamore Slough, a distance of thirty-nine miles, in accordance with plans and surveys made under the supervision of Gen. B. S. Alexander, Chief of the Engineer Corps on the Pacific Coast. The whole ground was carefully surveyed by Mr. John D. Hoffman, formerly Consulting Engineer at the Mare Island Navy Yard. The embankment has proved an effectual barrier to the highest floods; and will, when thoroughly settled and cemented by roots of willows and brushwood, be placed beyond hazard in the future. Active operations are now in progress to complete the embankment as far as Colusa, which will give it a total length of fifty miles. The cost of construction up to this date is about $220,000, or less than two dollars an acre for the whole amount of land so far reclaimed. Considerable work has yet to be done, in the way of drainage and intersecting dykes, before the entire tract can be considered effectually reclaimed, but it is not probable that the cost will exceed one dollar and a half an acre. This land, as shown by crops already raised on the Mormon

Settlement, fifteen miles above Knight's Landing, is capable of producing an average of forty bushels of wheat to the acre.

AGGREGATE RESULTS.

Glancing for a moment over the foregoing statements, let us now assume that we redeem from floods, tides and droughts, 300,000 acres of rich arable land. With an industrious population, every acre of the soil would soon be made productive. 150,000 acres planted in wheat would, at an average of thirty bushels to the acre, yield 4,500,000 bushels—say $5,000,000. 50,000 acres of meadow would yield in butter, cheese and milk, say $2,500,000; 100,000 acres in tobacco, cotton, ramie, sugar, fruits, etc., say $3,000,000—making altogether a gross product of $10,500,000 per annum. Three thousand industrious settlers, with their families, occupying tracts of one hundred acres each, could easily realize the above results. Allowing for the careful cultivation of each tract the labor of five hands, the gross product per hand would be seven hundred dollars per annum—net, say five hundred dollars; a very handsome compensation.

These of course, are very crude estimates, and may be wide of the mark. It cannot reasonably be doubted, however, that 300,000 acres of as rich soil as any in the world, thoroughly cultivated by a steady and industrious class of laborers, having a proprietary interest in the soil, will materially augment the wealth of our State.

Let us look still farther forward, and suppose that by means of the great canals and irrigating systems now projected over foot-hills and broad stretches of arable lands, from Red Bluff to the Tahaichepa Pass, are redeemed from drought and rendered fit for cultivation, at all times, how is it possible to estimate the magnitude of the results? With adequate labor, aided by these improvements, our agricultural exports could be increased within five years to $100,000,000 per annum.

RESUME.

I hope these will not be deemed inappropriate subjects for the consideration of your honorable body. Unlike ordinary private enterprises, limited in their scope, and having only an incidental bearing upon the general welfare, irrigation and reclamation affect directly almost every interest connected with the material advancement of the State. Among these may be enumerated: First—The promotion of immigration. Second—The direct increase of production and taxable property. Third—The increase of internal improvements and commerce. Fourth—The increase of shipping. Fifth—The increase of our import and export trade. Sixth—The increase of manufactures and various kinds of domestic industry.

In short, it would be difficult to fix a limit to their effect upon the general welfare. If it be objected that these enterprises are of a private character, and therefore not legitimate subjects for legislative encouragement, I would respectfully suggest that all important enterprises must have an individual or limited origin. The Central Pacific Railroad is the result of individual enterprise, and is even now controlled by a few leading men. The principal steamship companies through which our trade with Mexico, South America, Australia and China is chiefly carried on, are owned and managed by a comparatively small circle. It does not seem to me that the question is—whether a proposed measure will benefit a few individuals, but to what extent will it benefit the public at large? If it be, from its general scope and bearing, a measure of great public utility; then the fact that it may prove remunerative to those who invest their money in it, and whose enterprise and intelligence are essential to its success, should not, I think, be held as an obstacle to its official recognition.

Foreign capitalists are exceedingly timid about investing money in California. They know but little of our resources, and have no very favorable opinion of the administration of our laws. Public sentiment at a distance is not easily changed; the condition of things which existed in this State some years ago, is supposed by many intelligent people in Europe to exist still.

When they are invited therefore to invest millions of dollars in the purchase and reclamation of our alluvial lands, or in the construction of canals for the irrigation of the uplands, they naturally desire to obtain the strongest available testimony as to the safety of the investment and the profits likely to be realized from such an enterprise. Especially, they desire to avoid placing themselves in any position which might be deemed antagonistic to the general interests or to public sentiment on this coast. If they cannot enter upon the proposed work with the cordial co-operation of the citizens and the full support of the laws, they prefer not to undertake it.

Trusting that a residence of twenty-two years on this coast and an active participation during most of that time in the advancement of measures for the public benefit, will be deemed a sufficient guaranty of my good faith and the sincerity of my interest in the progress of California,

I remain with great respect,

J. ROSS BROWNE.

CHAMBER OF COMMERCE.

THE SWAMP LAND QUESTION—HIGHLY INTERESTING REPORT OF THE COMMITTEE—RECLAMATION AND IRRIGATION—REPEAL OF THE FENCE LAW URGED—ENCOURAGEMENT TO IMMIGRANTS.

At a meeting of the Chamber of Commerce of San Francisco, held in that City on the 22d of January, 1872, the Committee to whom was referred a series of resolutions in relation to the proposed enterprise of the Anglo-American Land Reclamation Company, reported as follows:

REPORT ON SWAMP LANDS.

Mr. Hopkins, Chairman of the Committee, read the following elaborate and highly interesting report upon this important subject:

To the Chamber of Commerce of San Francisco: Your Committee appointed on the 17th instant to examine into the subject matter of the resolutions introduced on that day by C. Adolphe Low, beg leave to report as follows:

From the preamble to said resolutions, as well as from the very able and interesting address of Hon. J. Ross Browne to the President of the Chamber, we learn that an association of capitalists has been formed in England for the purpose of investing large sums in the purchase and reclamation of portions of our swamp lands, and in active measures for colonizing the same with European immigrants.

The first four of the resolutions convey the idea of welcome to this institution, an indorsement of its plans and an assurance of profit in the contemplated investment.

The fifth assures it of the protection of its property by our laws.

The sixth recommends to the Legislature the passage of the bill now before it providing for the removal of present restrictions as to the sale, transfer and holding of lands in this State by foreigners.

The seventh recommends the passage of an Act making it a felony to cut or destroy levees or embankments.

The eighth recommends the repeal of the present Fence law.

In addition to these there has been referred to your Committee the resolution offered by C. T. Fay, recommending the creation by the Legislature of a State Board of Public Works, whose business it should be to devise and enforce an

UNIFORM SYSTEM OF RECLAMATION

For our swamp lands, and to regulate the construction, freight-tolls and water-rates of canals and irrigating works.

These topics are perhaps the most important that ever came before this body. They are all inseparably connected with each other; with the development, productiveness and population of the interior of the State, and with the growth of the consequent commerce which must concentrate at this city. Though, strictly speaking, none of them are within the purview of commerce only, which this Chamber is supposed exclusively to represent, it must be borne in mind that without production there can be but very little commerce; that the prosperity of the latter depends wholly on that of the former; that city capital and effort must be largely used in developing the country. This Chamber, therefore, is entitled to be heard on all topics affecting the general business of the State, especially when, as in the present case, those topics are of universal and exciting interest.

While during the ten years last past it has been evident to all that our agricultural wealth must ultimately be the great interest of the State, it is also evident that the extremes of

DROUGHT AND FLOODS,

Affecting large districts of the interior, impose far more than ordinary risks upon the business of farming, while the singular conformation of the country renders great bodies of our plow lands subject to the same contingencies at the same time. How to obviate this uncertainty of success, attributable not to the soil but to the topography and meteorology of the country, is the problem now before us. In the great interior valleys the difficulty is to get *sufficient* water in the Summer time. In the tule lands the question is how to get rid of the *surplus* water, especially in the Winter time. Yet the surplus in the tules is simply the drainage from the mountains through the very lands that suffer most from drought. If we shall be enabled to

AVERAGE THESE TWO EXTREMES

By such a system of artificial works as shall store the Winter's waters (which now flood the low lands while running to waste) so as to preserve them for the Summer uses of the farmers in the valleys, we shall at once have made California the garden of the United States. For if the liability to droughts and floods now clouding the prospects of the agriculturist could be removed, who does not recognize in the richness of the virgin soil the variety of its products, the unusual perfection of all kinds of vegetable and animal growths, and the equability of the climate, the elements of a greater and cheaper production, and consequent population, than are possible in any other portion of our country.

But pending the solution of this problem, it has been found impracticable to induce much agricultural immigration into California; because, notwithstanding the advantages of soil and climate, the immigrant fears to settle in a country where large districts are subject to uniform droughts, continuing for two or three years in succession; while in other places, floods covering millions of acres at a time, are likely to destroy the improvements of whole neighborhoods.

LAND MONOPOLY.

Moreover, a great outcry has been raised in all directions against land monopolists. We believe that the practice of holding large tracts of unimproved land merely for a rise, by parties who refuse to do anything for its improvements, is certainly a grave injury to the State, as are all other kinds of speculations wherein the operator adds nothing to the value of the article whose price he seeks to raise. But when we contemplate the necessity for great public works, without which land must be practically valueless in any hands, the aspect of this question changes. Works of irrigation and of reclamation on a scale commensurate with the wants of the State, cannot be constructed at retail. To conduct such enterprise as the topography of the Sacramento and San Joaquin valleys requires, calls for large brain to conceive, large means to execute, and the ownership of large bodies of land, the profits of whose improvement can alone justify the enormous expenses to be incurred. Were the laws of the State to prohibit the ownership of larger tracts of land than one hundred and sixty acres, they would simply provide, under the penalty of individual ruin, that no swamp land should be reclaimed, and no lands subject to drought should be irrigated. In other words, they would condemn the tule lands, lately proven to be the richest in the world, to endless solitude, and large portions of the great interior valleys to everlasting barrenness.

These views, we are confident, are those of all thinking men who are conversant with the wants of our State. When wholesale ownership is but a preliminary to the construction of improvements which are impossible to the small farmer, yet indispensable to the settlement and cultivation of the land; and when the profit to be derived from the improvement can be realized only by the sale and settlement of the improved lands, then the greatest good to the greatest number requires that men of enterprise and capital should have the privilege of owning the lands as an inducement to make the improvement.

We conceive, therefore, that this Chamber will but show itself equal to the present occasion, in extending

THE RIGHT HAND OF WELCOME.

To all men—coming from whence they may—who, having abundant means, and able to command the best engineering talent and experience, seek to construct such works for our benefit, and especially are such men to be received with words of encouragement (seeing that words are all they ask of us), when we remember the difficulty of making the advantage of our State as a home for immigrants known in the distant hives of population, where the representations of the thousand agents of other States, and of Australia, have pre-occupied the minds of the immigrating classes. The capitalists of Europe have it in their power, if we make it their interest, to produce a decided effect in colonizing California, for they are men of influence in their own countries, where the public good requires the depletion of the overcrowded population by emigration. They have

THE PATRONAGE AND INFLUENCE,

Without which no movement among people accustomed to be guided by the higher classes can be expected to succeed. It is the effort of the European holders of the railroad bonds, and State securities of Kansas, Missouri, Texas, and the Northwestern States that induces much of the foreign settlement of those States. If California can offer to those capitalists interests which would be promoted by immigration (and in the present instance nothing else would warrant the investment), we may depend upon it, their double interest exciting them to use their power in the premises would soon be felt in filling up our vast empty State with an industrious, congenial and hardy population. This movement has yet to be started, and it will require the diligent use of every known appliance to get it fairly under way—especially when we remember that certain interior newspapers have for years opposed with a malignity as short-sighted as it is injurious to the State every effort for the common development which has called for large investments of capital. Foreigners reading the diatribes of a portion of our own press can hardly be blamed for neglecting to invest in, or to assist in populating, a region whose public opinion, reflected, as they naturally believe it to be, in these organs, seems opposed to every enterprise in which they might be disposed to assist us.

Your Committee therefore concur in the sentiments of the first six resolutions referred to them.

CUTTING LEVEES.

The seventh resolution, relating to the passage of an Act making it a felony to cut or destroy a levee or embankment we think should be modified so as to require a *malicious intention* to make such an act criminal; for there may be cases in which the defense of life and property may make the cutting of a levee a necessary act of self-defense. And here we are led to the consideration of Mr. Fay's resolution touching the formation of

A STATE BOARD,

For the regulation of works of reclamation and irrigation. And here we observe: First—That this city has hitherto suffered to the extent of hundreds of millions of dollars through an inconvenient original survey, impossible grades, and impracticable and inconsistent attempts at drainage, so that after enduring the consequences of these blunders for twenty-two years we are now seeking relief by the creation of a City Board of Public Works.

Second—That the two branches of internal improvement—to wit, reclamation and irrigation—now in progress, by different parties having no connection with each other, bid fair to cross each other, entailing consequences similar to those so long complained of in the city. Judging from the experience of San Francisco, it is safe to predict that the works of these parties will assuredly conflict, either with the laws of nature or with each other, *unless their work be laid out and executed in conformity to uniform and scientific designs.* The waters of great rivers, especially in seasons of floods, *will* seek the sea. Obstructions to its natural course must change it or be swept away. If a channel be ten miles wide and ten feet deep in a state of nature, diminish its width one-half and you increase its depth and swiftness in proportion. If a dam be built across a channel, it will back up the waters to the level of the top of the dam, let who will be flooded by it. Opinions even now differ irreconcilably on this subject. Where one engineer advises a levee, another insists on a canal. It is easy to see that if all the lower marsh lands are to be surrounded with such embankments as those already constructed, the floods will be accumulated higher up in the valley; and being confined in their outlets thence to narrow channels will be likely to overtop all the levees at once, sweeping away everything in their course.

It becomes us *now,* ere but little of the contemplated work has been commenced, to avail ourselves of the experience of the English in India, and the Dutch in their country of dykes; and by uniform system and scientific calculation *in advance,* save the losses, the hardships and contentions sure to result from mistakes.

THE FENCE LAWS.

On the subject of the eighth resolution, asking for the repeal of the present fence laws, this Chamber has heretofore fully expressed itself; and your Committee believe that the republication of the report, adopted by this body in 1866, might now have some effect upon the Legislature.

Your Committee, therefore, beg leave to report back the resolutions referred to them, and to recommend their adoption in the following terms:

THE RESOLUTIONS.

WHEREAS, Associations have been formed in Europe, having for their object the introduction of foreign capital into the State of California, to be invested in the purchase, reclamation and colonization of marsh, swamp and overflowed lands, and it is deemed by the Chamber of Commerce of San Francisco a matter of paramount importance that the development of our resources should be encouraged by all legitimate means; now, therefore, be it

Resolved, First—That, in the opinion of this body, the reclamation of swamp, marsh and overflowed lands within the limits of this State, on a large scale, and in a thorough and scientific manner, is an important and beneficial undertaking, intimately connected with the commercial interests of San Francisco, as well as with the general prosperity of the State.

Second—That a limited experience in the cultivation of our swamp lands has demonstrated their extraordinary capacity for the production of almost every crop suited to the climate; that their reclamation by means of dykes, ditches, embankments and water gates has proved to be feasible at a comparatively small expense; that these lands have great natural advantages of access and cheap transportation, and will, when reclaimed, be peculiarly adapted to the support of a large agricultural population.

Third—That every inducement should be held out to the agricultural classes of Europe to make their future homes in this State, where the advantages of cheap and rich land, a great variety of production, a rapidly progressing railroad system, and an equable and healthy climate, present ease and exceptional means of wealth and comfort to settlers.

Fourth—That capital invested in the purchase of our marsh and swamp lands, situated on navigable waters, at the present low prices; and in the reclamation, settlement and sale of such land, can scarcely fail, under judicious management, to prove remunerative.

Fifth—That foreign capitalists may feel assured that their interests in California will be protected by the laws of the land and their rights as thoroughly enforced in our Courts as those of citizens.

MEMORIAL TO THE LEGISLATURE.

Your Committee also recommend the passage of the following memorial to the Legislature now in session:

To the Honorable the Senate and Assembly of the State of California: This memorial of the Chamber of Commerce of San Francisco respectfully asks:

First—That the bill heretofore introduced in the Senate by Mr. Farley, entitled "An Act to encourage the investment of foreign capital in California," having for its object the removal of restrictions as to the sale, transfer and holding of land in this State by foreigners, may be enacted into a law.

Second—That the bill heretofore introduced into the Senate by Mr. Beggs, making it a felony instead of a misdemeanor to cut, destroy or wantonly injure any dyke, levee or embankment made in accordance with law, may be worded so as to apply to such Acts only when *maliciously* performed, and so enacted into a law.

Third—That the present fence laws may be repealed, and such laws substituted therefor as will release the cultivators of the soil from the necessity of fencing out other people's live stock.

Fourth—That a law may be enacted creating a scientific commission of three, to be appointed by the Governor and confirmed by the Senate, who shall be intrusted with the power to supervise all works of irrigation and reclamation in the Sacramento and San Joaquin valleys, so as to secure an uniform scientific plan for such works, and prevent the damages, losses and contentions that will inevitably result from erroneous engineering or inadequate construction of such works.

That said Commissioners may be appointed for the longest constitutional term, in order that they may be as far removed as possible from political influences, and that they have also the power to regulate tolls and water rates on all artificial water-courses constructed for freighting and irrigating purposes.

Fifth—That the petition of the California Immigrant Union, asking the Legislature for an appropriation of $30,000 per annum for the purpose of promoting agricultural immigration into this State from the Eastern States and from Europe may be granted.

Resolved, That the President and Secretary be instructed to sign the foregoing memorial as the act of this Chamber, and to cause a sufficient number of copies for the use of both Houses of the Legislature to be printed and forwarded to each member.

All of which is respectfully submitted.

C. T. HOPKINS,
WM. T. COLEMAN,
J. T. DEAN.

On motion of Mr. Friedlander, the report was adopted as the sense of the Chamber.

VIEWS OF GEN. ALEXANDER.

The President called upon Gen. Alexander, who was present, to give his views on the subject. Gen. Alexander said that he was unprepared at this time to give his views at length. In early life it had been his fortune to be among the rice fields of the South, and while there became familiar with the reclamation of land. When reclamation was commenced in this State, he availed himself of the information he had involuntarily picked up in the South, which led him to a general investigation of the whole subject of reclaiming the lands on the Sacramento River and Lower San Joaquin. He was satisfied that nearly all the overflowed lands on the points named could be thoroughly reclaimed. Two years ago he wrote a letter to Wm. Blanding stating what kind of legislation was necessary. He then suggested that a Commission be appointed to investigate the whole subject, ascertain the highest floods ever known here, form a scheme for reclamation, and to frame a law for the present Legislature. This was that all might act cautiously and harmonize conflicting interests. It was not too late now; it was the only way they could reclaim successfully to prevent a clash of conflicting interests. The Commission should have a veto power, but not so as to check enterprise. This subject was also connected with that of irrigation, but that was not his specialty. We had as great a reservoir here as there was in the world, if we only hold back our water properly until it is wanted.

Mr. Stow inquired what the increase of the flow would be, by the system proposed.

Gen. Alexander replied that it would not be serious; the increased velocity would be small; the effect would be to make the stream deeper, and shorten the duration of floods.

Mr. Coleman asked whether it would not drench the river and make it more navigable, to which the General replied affirmatively.

REPORT ON MARSH LANDS.

SAN FRANCISCO BAY RECLAMATION.

The scheme of reclaiming the marsh lands around San Francisco Bay is one that, although never before brought before the public, has often been spoken of and commented upon by owners of marsh lands around the bay, and by landed proprietors generally, but has been passed over as something to be done years hence. It is true that the marsh lands are naturally reclaiming themselves by the accumulation of debris and vegetable deposit, brought down by the rains of every winter, and earth and other material by the large creeks that empty, not only into the bay, but by means of the small sloughs over the marsh. This accumulation has now brought the surface to about high water mark, and it is time to engage engineering to finish what it would take years to do in the ordinary course of nature.

The time to begin is when a small outlay will solve the great problem of throwing a vast tract of land into the market as arable land, and the very finest kind of land for the growth of vegetables or grain, and we consider that that time has now arrived, which we can prove by a complete statement and description of the works necessary, and the cost of the same, and only ask the public to glance at the figures and the map attached hereto, and we think they will be fully satisfied that this undertaking is not a wild speculation, but a plain engineering work that all may examine into—the result speaks for itself.

We say the time has now arrived and that we gain nothing by waiting, for our plan of reclaiming the marsh lands provides precisely for what would have to be done years hence. An embankment has to be made, and the mouth of sloughs that let in the salt water stopped up, so that the only gain by waiting is the probability of labor becoming cheaper.

We need not draw the attention of the public to advantages of dry land bordering this magnificent Bay, in place of thousands of acres of untraversable marsh, and to good roads leading thereto, terminating at wharves and landings; nor need we say that the company that takes this work in hand will derive a handsome return for the necessary outlay of capital in comparatively a limited space of time. We will, therefore, enter at once into the details of the scheme, which are not gotten up roughly, but are the result of careful examinations, actual borings, and the experience gained in making surveys and estimates for swamp land reclamation works in other parts of the State, which, at the present moment, are actually being executed, and also in the construction of roads, etc., on these same marshes.

The tract proposed to be reclaimed, commences at a point a short distance south of San Bruno Point, and widening out by Millbrae, it converges again to a point near the Shell Park Race Track.

Commencing again west of Coyote Hill or San Mateo Point, and from thence, south, passing Belmont, Redwood City, Ravenswood, extending to Alviso, thus rounding the southern part of the bay ; thence northerly, taking in Mowry's, Mayhew's and Johnson's Landings, by Union City, and as far as Allen's Landing, which forms the southern boundary of the salt works.

The above description includes marsh land, in all, amounting to about 48,150 acres, which is divided into four main sections, viz :

Buri Buri Section, from San Bruno Point to a point west of San Mateo Point, containing 2,540 acres.

San Mateo Section, from 1 mile west of San Mateo Point to Ravenswood wharf, containing 17,679 acres.

Santa Clara Section, from Ravenswood wharf to Main Slough, at head of bay, containing 10,566 acres.

Contra Costa Section, from Main Slough, at head of bay, to near Allen's Landing, containing 17,408 acres—averaging under $10 per acre for cost of reclaiming.

The plan proposed to be carried out, is to throw up an embankment 15 feet wide on the top, and 5 feet above the level of the marsh, which is about high water ; and carry this embankment round the whole bay, and following the edge of the marsh, as shown on the map, attached hereto, by a double red line, and called in the estimate first-class embankment.

Each main section is divided into minor sections, which are bounded by streams that must have an outlet into the bay, this is arranged for by an embankment 3 feet wide at the top, and 5 feet above the level of the marsh, formed on each side of the creek, and called in the estimate, second-class embankment.

The intermediate sloughs that require no outlet, and can be dammed up, are done so, by means of sheet piling, and an embankment of the same width, and corresponding to the first-class embankment, and shown on map by yellow lines.

The estimate of the above works are as follows :

Buri Buri Section, 2,540 acres, first-class embankment, 106,260 cubic yards at 20 cents................	$21,252 00	
Second-class embankment, 15,980 cub. yds. at 20 cts..	3,196 00	
Draining sloughs, embank't, 17,446 cub. yds. at 20 cts.	3,489 20	
Draining sloughs, timber, 78,000 feet at $40........	3,120 00	
		$31,057 20
San Mateo Section, 17,679 acres, first-class embankment, 344,652 cubic yards at 20 cents	$68,930 40	
Second-class embankment, 77,180 cub. yds. at 20 cts.	15,436 00	
Draining sloughs, embank't, 120,501 cub. yds. at 20 cts.	24,100 20	
Draining sloughs, timber, 596,160 feet at $40.......	23,846 40	
		$132,313 00

Santa Clara Section, 10,566 acres, first-class embankment, 188,265 cubic yards at 20 cents	$37,652 10	
Second-class embankment, 106,080 cub. yds. at 20 cts.	21,216 00	
Draining sloughs, embank't, 82,478 cub. yds. at 20 cts.	16,495 60	
Draining sloughs, timber, 384,680 feet at $40	15,387 20	
		$90,750 90
Contra Costa Section, 17,408 acres, first-class embankment, 351,120 cubic yards at 20 cents	$70,224 00	
Second-class embankment, 123,760 cub. yds. at 20 cts.	24,752 00	
Draining sloughs, embank't, 91,242 cub. yds. at 20 cts.	18,248 40	
Draining sloughs, timber, 424,408 feet at $40	16,976 32	
		$130,200 72
Making a total cost of works		$384,321 82

Land that will only give a fair crop, with the advantages that this would have from direct communication with the city markets, by boat or by rail, will bring a rent of $6 per acre, which is interest on land worth $100 per acre; but to be under rather than over in our calculations, say the land to be worth when reclaimed $100 per acre, which will make a total of 48,150 acres at $100, making $4,815,000.

The marsh round the bay is divided up into sections, which have been nearly all taken up, although many have forfeited their claims by non-payment of taxes.

That part not taken up, or forfeited to Government, can be bought at a low rate per acre. The balance can be arranged for as the Association think fit, and in all probability the whole of the land can be placed in the hands of the Association at an average cost of $15 to $20 per acre; but we will call it $15, which will now give us an opportunity of coming to the end of our calculations with the following result:

48,150 acres reclaimed land at $100		$4,815,000
48,150 acres taken up and bought say at $15	$722,250	
Cost of works reclaiming	384,322	
Engineering and legal expenses say	25,000	
Total expenses	$1,131,572	
Balance profit	3,683,428	
		$4,815,000

JOHN D. HOFFMANN AND } Civil Engineers,
ALFRED POETT,

728 Montgomery Street, San Francisco.

Letter of B. S. ALEXANDER, Lieut. Col. Engineers, Brevet Brigadier General U. S. Army, Engineer in Chief of the United States for the Pacific Coast, in reply to letter of HON. W. S. CAMPBELL.

San Francisco, Cal., December 12th, 1871.

Brevet Brigadier General B. S. Alexander, Lieutenant Colonel of Engineers, U. S. Army.

Dear Sir:—A preliminary organization has been formed in London for the purpose of establishing a Company of English Capitalists to purchase and reclaim some of the rich alluvial lands now liable to inundation, situated on and near the Bay of San Francisco, the Sacramento River and the Tulare Lake.

The lands in question are considered to be among the most desirable of their class in the State, and consist principally of Mr. Beard's tract of 20,000 acres, on the southeast side of the Bay of San Francisco, Coryell's tract adjoining of 14,000 acres, the Vallejo tract, Napa Creek, of 15,000 acres, Grizzly Island of 10,000 acres, Blanding and Robert's lands on the Sacramento River of 107,000 acres, and the Tulare Lake and Kern lands about 90,000 acres.

After a careful inspection of these lands by Mr. Eastwick, M. P., Mr. Dalrymple Hay, Civil Engineer, and myself, and with all the facts we have been able to gather in respect to them and the costs and benefits in similar enterprises on a smaller scale, already tested here, we are fully satisfied in our own minds of the advantages of the present undertaking. Believing it to be an enterprise involving in its success very material advantage to the people of California, it would be highly satisfactory if our own views were supported by the opinion or experience of men like yourself whose long residence and intimate knowledge of this country, must enable them to form a better judgment of the real value of such a scheme than could be acquired by strangers within the scope of an ordinary visit. In this view and in furtherance of the objects of so important and beneficial an enterprise, I hope you will not refuse to give us the advantages of your opinion in such detail as your time may permit, or in any general terms most convenient to you, and very much oblige

Yours very respectfully,

[Signed] W. S. CAMPBELL.

San Francisco, Cal., December 19th, 1871.

W. S. Campbell, Esq., San Francisco, Cal.

Dear Sir:—I duly received your note of the twelfth instant, asking my opinion of certain lands in this State, which you say it is in contemplation to purchase and reclaim by a company of English capitalists.

In reply, I have the pleasure to inform you that I am familiar with the character of most of the overflowed and swamp lands on the interior waters connected with the Bay of San Francisco, and also on the borders of the Sacramento and San Joaquin Rivers.

The "Tule" lands at the delta of these two rivers I have made a special study, and examined them carefully, for weeks at a time, with a view of informing myself as to the best method of reclaiming them.

Speaking in general terms, I may say that all of these lands, including those which you enumerated, have greatly increased in value within a few years. They have doubled and trebled, and some of them have quadrupled in value within the last five years, and yet only a very small portion of them have been reclaimed and reduced to a state of cultivation, because the attention of the people of this State has only recently been called to the possibility of their reclamation, to their enormous fertility, and to the fact that their general cultivation will relieve the State from the effects of drought. For if all the lands having water communication with San Francisco were properly cultivated, their products would feed the State, and leave a large margin for exportation.

I think there can be no doubt in any reflecting mind that these lands will go on increasing in value as the population of the State increases, and most likely in a greater proportion. And that the population of this State is destined to increase, in a rapid ratio, we have evidence in her past history, in her genial climate, her fertile soil, and its capacity for varied and rich productions, her wealth in mineral resources, her exhaustless water from the Sierras for irrigation, mining, and at no distant day, for manufacturing purposes; her commercial advantages, and the fact that a railroad has already been built across the continent to connect her with the older portion of the United States.

To be more specific: I will say that I think the overflowed tide lands of which you speak, Mr. Beard's tract, and the Coryell's tract on the Bay of San Francisco, as well as all the other tide lands on this bay, are destined, at no distant day, to become very valuable. Their complete reclamation is entirely practicable and at a small cost. The water of the bay only rises over these lands to the depth of one, or at most two feet, even in the highest storm tides. They are in no danger from floods, for floods in the rivers have no perceptible effect on the height of the water in the Bay of San Francisco. A dike therefore on the bay side, of an average height of four feet above the surface of the ground, will afford complete protection against even storm tides.

When this land is once relieved from salt water, it may be freshened sufficient for grasses in a single season, and for grain and vegetable gardens in two years. This I know from experience. Fresh water for this purpose and for irrigation, may be obtained from artesian wells at no very great depth on the ground, or the waters of the Alameda and Coyote Creeks may be allowed to flood these lands two or three times during the rainy seasons for a year or two, or until all the soil is thoroughly leached, and the salts now impregnating it are dissolved and carried into the bay by the outflowing waters.

The soil is alluvium, and doubtless of the very best quality to enable this district to be made a region of gardens and meadows. Then, from the facilities of transportation, both by water carriage and by railroads, to this city, there can be no doubt that the land would advance to a very high value in a single year. It will certainly be much more valuable than the adjoining uplands, at least for agricultural purposes, for it will be greatly more productive, because being low it can always be irrigated. For dairy purposes alone it will doubtless always command a very high price. This city would furnish a market for the products of the dairies. But in looking to the future value of these lands for this or for other products, it should not be forgotten (in case of competition in this city and in Oakland by products from the fresh water tide lands of the Sacramento and the San Joaquin Rivers), that the shores of San Francisco Bay immediately adjoining these lands on the line of the railroads, if the progress already made in their settlement during the past few years is to be taken as an indication of their future settlement, point to a dense population at an early day, affording therefore an unfailing market for all their productions.

What I have said about the prospective value of the overflowed lands around the Bay of San Francisco, applies to a great extent to the Vallejo tract, on Napa Creek, and to Grizzly Island, in Suisun Bay. They will be easily reclaimed, for they are not subject to the river floods; the dikes will not be expensive; fresh water can be obtained to leach away the salts; water communication with San Francisco and Vallejo (destined to become a large town) is perfect, and all their productions will command paying prices, so that, when reclaimed, these lands will also be very valuable.

In reference to the Blanding and Robert's tracts, of which you speak, I will observe that you already have a copy of a report which I made to Mr. Louis Garnett and the gentlemen associated with him, about the "Blanding tract," dated February 18th, 1869, in which my views as to the best method of its reclamation are given in some detail.

Since that time the works I then proposed have been built, at least the greater portion of them have been. How well the work has been done, I do not know, for I have not seen it.

When this land is once reclaimed, there can be no doubt of its immediate value for agricultural purposes. The soil is rich alluvium, and nearly all of it is ready for the plow, without clearing. To make this land what it ought to be however, the reclamation should be complete, against all possible floods. The land ought to be covered with farms, farmhouses, orchards and gardens. To make these things possible the settlers upon it must be relieved from all danger from floods, as well as from all apprehensions of danger, for *apprehension of danger* in a case like this is nearly as damaging to the financial success of the undertaking as danger itself.

I have no doubt of the entire practicability of completely reclaiming the whole of the "Blanding" as well as the "Robert's" tract opposite, within very reasonable limits of expense, by building the levees high enough and strong enough, so as to keep the water of the Sacramento River within the dikes or levees. These may be high enough now, but if not, they should be strengthened. Of course, no money ought to be spent on them that can be saved, but to insure the immediate market value of these lands not a dollar ought to be saved at the expense of success.

As to the "Robert's tract," it is much like the "Blanding tract." More levee in proportion to the area will have to be constructed, and I think a part of it will have to be heavier; but on the other hand this tract has the advantage that all of it, or nearly all of it, can be irrigated in dry seasons by water taken from the Feather River, a short distance above.

I cannot speak understandingly of my own knowledge, of the "Tulare Lake" and "Kern Lands," for I have never seen them. From all the testimony I can get from those acquainted with them however, I have no doubt of their easy reclamation, their productiveness and consequent enhanced value at an early day.

I hope the above opinion may prove satisfactory to you. If, however, there are any special points in reference to these lands, or to the best method of reclaiming them, about which you may desire my views, I hope you will not hesitate to command them.

Very respectfully your obedient servant,
[Signed] B. S. ALEXANDER,
Lt. Col. Engineers,
Brevt. Brig. Gen. U. S. A.

Letter from the HON. MILTON S. LATHAM, ex-Governor of California, ex-United States Senator, and Resident Manager of the London and San Francisco Bank, in reply to a letter of inquiry from HON. E. B. EASTWICK, C. B. M. P., etc., etc.

San Francisco, Cal., 14th December, 1871.

The Hon. E. B. Eastwick, C. B. M. P., etc., etc., London.

Dear Sir:—I have given careful consideration to the contents of your favor of the 23rd ultimo, and it affords me pleasure to furnish you with such information as I possess on the subject of your proposed enterprise.

The low alluvial lands of California derive a special value from the peculiarities of our climate. There are only two rivers of any considerable magnitude within the limits of the State: the Sacramento, flowing from the north, and the San Joaquin from the south. These, with their tributaries, have their sources in the Sierra Nevada and Coast Range mountains, and drain the great valleys of the Sacramento and San Joaquin, debouching into Suisun Bay and ultimately flowing through the Straits of Carquines into the Bay of San Francisco. The ordinary duration of the rainy season is from November to March. Sometimes the rainfall of winter, aided by the melting snows of the Sierras in spring, furnishes a sufficient supply of water to insure abundant crops, but ordinarily the water supply is deficient. The summer months are dry and cloudless, and the uplands soon become parched. Frequently a period of eight months elapses, during which the earth is not moistened by rain, though there are dews and fogs near the coast which mitigate the severity of the drought. When the rain supply is deficient for two or three years in succession our agricultural interests suffer severely, and many thousand cattle perish from thirst and starvation. Of late it has become manifest that the remedy lies in the adoption of a system of irrigation for the uplands, and in the reclamation and irrigation of the low lands. All the water furnished during the winter must be saved and utilized.

Attention has recently been directed to the swamp and marsh lands situated in the valleys of the Sacramento and San Joaquin, and in the delta formed by the junction of the two rivers. Experiments made in the planting of wheat, have resulted most satisfactorily. Enormous crops have been produced; ranging, in some instances, as high as sixty, seventy and eighty bushels to the acre. The extraordinary fertility of these lands has been established beyond question. With such testimony before me, I cannot doubt that an investment made in the purchase and reclamation of these lands, must, under ordinary circumstances, prove renumerative.

With respect to the particular tracts, to which you call my attention, I have traveled over most of them during my long residence in California, and consider them quite equal to any lands in the State, indeed, I know of no richer lands, either in California or elsewhere.

The salt marshes situated on the navigable waters of the bay, surrounded by growing towns, and in close proximity to San Francisco, must, in the natural order of events, become exceedingly valuable in the future. When reclaimed, they will undoubtedly be in great demand for garden, grazing and dairy purposes.

A network of railways is rapidly concentrating around the shores of the bay. Our commerce with Asia, Mexico, South America and the various ports of the Pacific, is steadily increasing; our manufactures are assuming importance, and our mining and agricultural interests, are in a prosperous condition. It is safe to predict, that our progress will be onward, and that investments made in lands, at the present low prices, around the shores of the bay, or on any of our navigable waters, will be exempt from the risk of loss, or permanent depreciation.

California possesses a temperate and healthful climate. The great desideratum is population. While Great Britian contains 225 inhabitants to the square mile, England alone, 332, Belgium 388, and the States of Germany, from 200 to 300; on the whole Pacific slope, comprising eight States and Territories, with an aggregate area of 903,019 square miles, contains less than 900,000 inhabitants, or a fraction less than 1 to the square mile. The area of California is 154,116 square miles; population (estimated) 570,000, or a fraction less than 4 to the square mile.

With such unlimited resources as we possess, agricultural and mineral, it is not too much to say that this State alone, is capable of supporting a population equal in density to any of the States of Europe.

In view of the direct relation of your enterprise to immigration and settlement, I cannot but believe that it will prove, not only profitable to those whose capital will be invested in it, but of incalculable advantage to the

State. Judiciously conducted, I see no reason to doubt that it will be one of the safest and most lucrative enterprises ever inaugurated on this coast.

In relation to the titles, I can only say that the General Government, by Act of Congress, 28th September, 1850, granted to the State of California the swamp and overflowed lands within its boundaries, and the State by subsequent legislation authorized the sale of these lands to private individuals. There have been disputes as to the segregation of the upland from the swamp lands; but under a recent decision of the Secretary of the Interior, the 4th Section of the Act of Congress of July 23d, 1866, to quiet titles in California, secures to the State, as swamp and overflowed, all lands represented as such on approved plats of the United States Surveys, made prior to July, 1866, or thereafter—so that in all cases where the Federal and State laws have been complied with, and no adverse claims exist, the title to these lands is perfect. Usually they are held either by the original locators, or by first or second transfers. The examination of titles, therefore, will be a simple matter. The company's solicitor should of course carefully investigate all matters relating to title before any payment of purchase money is made.

In conclusion, I am happy to be able to express my entire faith in the soundness and legitimacy of your scheme. I believe it to be safe and, under proper management, nearly certain to be lucrative. So far as my duties will permit I shall take great pleasure in promoting your object.

Wishing you success, I am, dear sir, very truly yours,

(Signed) MILTON S. LATHAM.

[From "Draining for Profit and Draining for Health," by Geo. E. Waring, Jr., Engineer of the Drainage of Central Park, New York.]

THE RECLAIMING OF SALT MARSHES.

Hundreds of thousands of acres that might be cheaply reclaimed, and made our most valuable and most salubrious lands, are abandoned to the inroads of the sea; fruitful only in malaria and mosquitos, always a dreary waste, and often a grave annoyance. * * * * * * * * * The inherent wealth of the land is locked up, and all of its bad effects are produced, by the water with which it is constantly soaked or overflowed. Let the waters of the sea be excluded, and a proper outlet for the rain-fall and the upland wash be provided—both of which objects may, in a great majority of cases, be economically accomplished—and this land may become the garden of the continent. Its fertility will attract a population, (especially in the vicinity of large towns,) which could no where else live so well nor so easily.

The manner in which these salt marshes were formed may be understood from the following account of the "Great Levels of the Fens," of the eastern coast of England, which is copied from the Prize Essay of Mr. John Algernon Clarke, written for the Royal Agricultural Society, in 1846.

The process is not, of course, always the same, nor are the exact influences which made the English Fens, generally, operating in precisely the same manner here, but the main principle is the same, and the lesson taught by the improvement of the Fens is perfectly applicable in our case.

"This great level extends itself into the six counties of Cambridge, Lincoln, Huntington, Northampton, Suffolk and Norfolk, being bounded by the highlands of each. It is about seventy miles in length, and varies from twenty to forty miles in breadth, having an area of more than 680,000 acres. Through this vast extent of flat country, there flow six large rivers, with their tributary streams, namely: the Ouse, the Cam, the Neue, the Welland, the Glen, and the Witham.

"These were, originally, natural channels for conveying the upland waters to the sea, and whenever a heavier downfall of rain than usual occurred, and the swollen springs and rivulets caused the rivers to overflow, they must necessarily have overflowed the land to a great extent.

"This, however, was not the principal cause of the inundation of the Fens; these rivers were not allowed a free passage to the ocean, being thus made incapable of carrying off even the ordinary amount of upland water, which, consequently, flowed over the land. The obstruction was two-fold; first, the outfalls became blocked up by the deposits of silts from the sea waters, which accumulated to an amazing thickness. The well known instances of boats found in 1635, eight (8) feet below the Wirbeck River, and the smith's forge and tools found at Skirbeck Shoals, near Boston, buried with silt sixteen feet deep, show what an astonishing quantity of sediment formerly choked up the mouth of these great rivers.

"But the chief hinderance caused by the ocean arose from the tide rushing twice every day for a great distance up these channels, driving back the fresh waters, and overflowing them, so that the whole level became deluged with deep water, and was, in fact, one great bay.

"In considering the state of this region as it first attracted the enterprise of man to its improvement, we are to conceive a vast, wild morass, with only small detached portions of cultivated soil, or islands, raised above the general inundation; a most desolate picture when contrasted with its present state of matchless fertility."

Salt marshes are formed of the silty deposits of rivers and of the sea. The former bring down vegetable mould and fine earth from the uplands, and the latter contribute sea weeds and grasses, sand and shells, and millions of animalculæ, which born for life in salt water, only die and are deposited with the other matters at those points, when from admixture with the fresh flow of the river, the water ceases to be suitable for their support.

It is estimated that these animalculæ alone are the chief cause of the obstructions at the mouths of the rivers of Holland, which retard their flow, and cause them to spread over the flat country adjoining their banks.

It is less important, however, for the purposes of this chapter, to consider the manner in which salt marshes are formed, than to discuss the means by which they may be reclaimed and made available for the uses of agriculture.

[From United States Agricultural Report for 1870—by Jerome J. Collins, Civil Engineer of Hudson City, N. J.]

A GLANCE AT THE HISTORY OF RECLAMATION.

If we glance back over the many centuries the brave inhabitants of the Netherlands have held their fertile country against the ocean, after rescuing it from the waters, we must be struck with admiration at such an instance of a nation's perseverance. The Hollanders found their country a morass; they now present it a picture of fertility and abundance, and we must not forget that, though they worked hard at their national defenses against the ocean, they were not spared the horrors of war by their neighbors. The country they strove to rescue from the sea became, on account of its position, the battle-field on which many European quarrels were decided, and the inhabitants were often compelled to cast aside the spade and grasp the sword in defense of their lives and property.

The periodical overflowing of the Nile to uncertain limits necessitated the controlling of the waters within defined boundaries, and this control was most undoubtedly exercised by means of embankments.

The Phœnicians—the people of Tyre and the ancient sea-ports of the East, the Greeks and Romans erected extensive works on their sea coast to protect their cities and ships from ocean storms and foreign enemies, and no doubt they inclosed low-lying lands in many instances for the purpose. The Romans, during their occupation of Britain, raised immense lines of embankments at several points along the coast, the remains of which are still in existence. In fact, all nations, as they advanced in civilization, seem to have recognized in reclamation a means of extending the area of land to be distributed among the people without necessitating an emigration of surplus population.

This has been the case in India and China, where the dense population manages to accommodate itself to the limits of those countries, and it is only within the last few years that we have seen any signs of a movement by these people to other countries.

The original settlers of the Netherlands were the descendants of those wandering tribes whose emergence from their homes in the North heralded the downfall of the Roman empire, and laid the foundations of the nationalities which at present checker the map of Europe.

The first steps toward erecting barriers against the tidal overflow, in Holland, are stated to have been taken, in or about the second century of the Christian era. It is probable that vanguards of the great army of invasion, which in later times overrun Europe from the north, had begun to move forward, and occupy, in small bodies, the country lying along the northern coast.

As the population increased, and the groups of mud huts grew into large cities, the necessity for placing under cultivation more extensive areas of land became imperative. The more valuable these settlements grew to the people, the more desirous were they to guard them against destruction by the sea, and the attention of the government and people was directed to the general and permanent embanking of the whole coast. How they have succeeded we all know. The country which was once a desolate marsh, is now a garden. Visitors passing through it acknowledge that in no part of the world is scientific agriculture better understood, or applied, although the fields and dwellings, are, in many places, twenty feet below the level of the sea. It was not alone necessary to embank against the sea, but also against the waters of some of the great rivers, whose sources are to be found in the very heart of Europe, and which would overflow all the low land they traverse, had not the precaution of confining them to their natural channels been taken by the Hollanders.

Many works have been written which give detailed descriptions of the manner in which the dikeing of the Netherlands was carried on. The foundation of the work was laid by nature. The superstructure is the work of man. Along the coast, exposed to the northwestern storms, a bank of sand was washed up by the action of the waves, and a natural barrier was erected against the incursion of the tidal waves. A belt of wood which grew along the coast, and against which the sand was heaped, assisted the early toilers in their labors, by affording both shelter and material. This wood has since disappeared to a great extent, in the constant repairs, rendered necessary by the action of the waves in stormy weather.

Beyond strengthening and connecting these mounds or banks of sand, and securing the lands in the immediate neighborhood of the ocean from tidal overflow, little was done in the beginning on the main embankment along the coast, while the river banks were left wholly exposed. The great work once initiated, however, it has progressed steadily to the present day, and we find that after a struggle, lasting many centuries, the energy and perseverance of man have wrested a kingdom from the sea.

Writers on the subject of the early condition of Holland, tell us that the country was covered with lakes, varying in size, which have been drained and converted into fruitful farms.

The most important operation, lately and successfully completed, is the draining of the Haarlem Lake, which covered an area of about 45,000 acres. A description of this work was given in the report of the Department of Agriculture for 1866.

Extensive tracts on the east coast of England, called the Fen country, have been embanked and drained, and added to the cultivable land of that section. As many as 680,000 acres of fen have been reclaimed, and the works rival those of Holland in extent.

The Encyclopædia Britannica says: "This fen country has for centuries been the scene of drainage operations on a stupendous scale. The whole surface of the great basin of the fens is lower than the sea, the level varying from four to sixteen feet below high water mark in the German ocean. The difficulty in draining this flat tract is increased from the circumstance that the ground is highest near the shore, and fall inward toward the foot of the slope. These inland and lower grounds consist of a spongy peat, which has a natural tendency to retain water. The rivers and streams which flow from the higher inlands discharge upon the level grounds, and originally found their way in the broad and shallow estuary of the wash, obstructed in all directions by bars and sand-banks. These upland waters being now caught at their point of entrance on the fens, are confined within strong artificial banks, and so guided straight seaward, and are thus restrained from flooding the low grounds, and by their concentration and momentum assist in scouring out the silt from the narrow channel to which they are confined. The tidal waters are at the same time fenced out by sea-banks, which are provided at certain intervals with sluice-doors, by which the water escape at ebb tide. When this does not provide such a drainage as to admit of cultivation, the water is lifted mechanically by wind or steam mills into the main aqueducts."

* * * * * * * * *

"In the district called Marsh, in Norfolk, extending between the Ouse and the Neue, in that called South Holland, in Lincolnshire, stretching between the Neue and Weland, northward of Spaulding, and also northeast of Boston, there are considerable tracts of marine clay soil. In Marshfield this is chiefly arable land, producing large crops of wheat and beans, but in Lincolnshire it forms exceedingly fine grazing land. This tract lies within the old Roman embankment by which the district was first defended from the ocean. Outside this barrier are the proper marsh lands, which have been reclaimed in portions at successive periods, and are still intersected in all directions by ranges of banks. The extraordinary feature in this tract is, that the surface outside the Roman bank is three or four feet higher than on the inside, and the level of each new enclosure is more elevated than the previous one. The land rises step by step as the coast is approached, so that the most recently reclaimed land is often twelve and sometimes eighteen feet higher than the lowest fen land in the interior, the drainage from which must, nevertheless, be conveyed through these elevated marshes to the sea."

These extensive works are represented by many hundreds of miles of river embankments, and the sea coast line embanked, exceeds one hundred and thirty miles in length.

This fen land, once, like that of Holland, a wild marshy tract, impassable to man or beast, is now a fertile farm, rich in agricultural products, and inhabited by a healthy and wealthy population.

Another instance of successful reclamation is to be found in England: the Bedford Level, called after the Earl of Bedford, who, in the year 1634, expended over £100,000, to reclaim these lands, and whose son completed the work at an additional cost of £300,000. These lands have since that time been kept perfectly free of water, by means of wind mills and other pumping engines.

Extensive drainage operations have been carried on in many parts of Europe, particularly in France and Italy.

The celebrated Pontine marshes near Rome, are mentioned by early historians, as a source of great danger to the public health; and several unsuccessful attempts were made to reclaim them. The popes at different periods renewed these efforts, and their success, though partial, proved that the drainage could be effected with sufficient capital.

In Ireland immense tracts of peat bog have been drained and converted into arable land. The bog of Allen is an extensive area of peat soil, extending into several counties, and covering many thousand acres. In the southern part of Ireland, along the rivers and shores of the main estuaries, large areas of alluvial deposits have been enclosed by embankments, and a rich soil made available for cultivation.

The cotton lands in the valley of the Mississippi, are exceedingly fertile, when properly protected by levees from the periodical overflow of the river. The construction and maintenance of these levees, are often the subject of discussion in Congress, and it would seem proper that the nation's representatives should interest themselves in what forms the only protection to the agricultural interest of several of the States of the Union.

In Canada, the question of reclaiming the marsh land, is receiving considerable attention, from both the government and the people. Extensive works are about to be commenced, with a view to these reclamations; and vast areas of fertile soil will be added to the lands of the New Dominion.

In this country the question of utilizing marshes, has not yet attained the importance it deserves.

In the neighborhood of New York, a considerable tract of land, known as the Newark meadows, lying between Newark and Paterson range of hills, on the west side, and the Palisade ridge of Bergen hill on the east side, has been embanked, and otherwise drained and reclaimed, within the past two years.

WILL RECLAMATION PAY?

A question of consideration is, will reclamation of marsh lands pay those who invest their capital in such undertakings? When we invest our money in that which is perishable, stealable, or depreciable in value to such an extent as to become positively worthless, we have an uncertain security for the principal invested, and profit is doubtful. We can invest in that which is itself a standard of value, such as the gold coinage of the country. In this case the security is good in the thing itself, but the profits are uncertain. Or, investment can be made in that which has an intrinsic value of its own, non-depreciable, independent of any standard value but its own worth, and above all indestructible and immovable, and advancing in value with time, such as good land. For this investment the security is certain, visible and tangible, and the profits are equally certain, and limited only by the inactivity of the investor in developing them.

As it is the interest of every State to develop its resources, and as the principal source of wealth to a country must be the productions of its soil, it is of the highest importance that these should receive attention. Capitalists will unhesitatingly engage in speculations for the working of gold mines, where the chances of profitable return depends almost entirely on the lucky striking of a rich vein of the precious metal, of which we hear of more disappointments than successes. With a plethora of money in our markets, men are continually seeking for safe and profitable modes of employing their idle capital, and in lieu of the desired investment they are often content to accept the comparatively small per centage allowed by the banks, while almost at their doors may be found the means by which their capital can be safely and profitably employed in the reclamation of these much-needed marsh lands.

In the case of the Hackensack meadows, near Newark, New Jersey, reclaimed by the Iron Dike and Land Reclamation Company, of New York, the whole area selected for reclamation was about 4,500 acres, which was purchased by the company at an average price of $50 per acre. The cost of inclosing this area with an embankment, and the cutting of a series of main ditches and drains throughout the whole area did not exceed $250,000, which would be equal to about $55 per acre, making the cost of purchase and reclamation about $105 per acre. Previous to the commencement of the works the marsh was completely overflowed at every tide, and the entire embankment and ditching were done by manual labor, while the insertion in the whole length of river embankment of Driggs' Patent Iron Dike Plate added considerably to the cost of the works.

They have 4,500 acres of wet marsh purchased and reclaimed for $105 per acre. When this land has been thoroughly drained it will be worth $1,000 per acre. If it takes three years cultivation to bring it to this condition, the tract at the end of that time will be worth say $4,500,000. Meantime the land will rent for $50 per acre per annum, which sum is, at the end of three years, equivalent to $675,000 or $200,000 in excess of the original cost.

We have the value then at..................................		$4,500,000
Add amount of rent for three years at $50 per acre............		675,000
		$5,175,000
Cost of land and reclamation......................	$475,000	
Interest three years at 7 per cent..................	99,750	
Cost of maintaining banks, etc., three years........	27.000	
		601,750
Profits to investors in three years..........................		$4,573,000

The location of the land near the City of New York has, of course, much influence on its value, and it is not intended to convey the idea that all reclaimed land will be equally valuable, or capable of returning so enormous profits as the Hackensack meadows promise.

The tracts of marsh lying at a distance from the great cities are not less valuable in proportion, because, if their value is not so great when reclaimed, their present value is very much less, being in many cases as low as $5 per acre, while there would be no increase whatever in the expense of reclamation.

Professor Cook, speaking of the marshes lying along the coast of New Jersey and the neighboring States, says: "The value of banked meadows in Salem County, New Jersey, and along the Cohansey Creek and Maurice

River, in Cumberland County, ranges from $200 to $500 per acre. Previous to banking these meadows were comparatively worthless."

If, therefore, almost worthless marshes can be raised in value to $200 per acre, by merely banking them against tidal overflow, at a very small cost per acre, what may not be the increase in value when the lands are properly reclaimed, and drained and fitted, at a small increase in cost, for the highest class of cultivation?

Professor Cook also makes the following statement: "The meadows of Wallkill, the Pequest, the Paulinskill, and the Passaic, are rich lands, and comparatively unproductive, though lying in the midst of the finest part of the State. The improvements must be made, and the land brought to the degree of productiveness, which the best interests of the State demand. * * * We have between one and two millions of acres of land in southern New Jersey, which are comparatively unimproved. Private enterprise is doing much for its development Millions of dollars have been invested for its improvement within the last fifteen years, and thriving settlements have been formed. These pioneers deserve well of the State, and they should be furnished with every information and facility for pushing forward their improvements."

Considering the high rents paid at present by market gardeners, amounting frequently to $150 per acre, per annum; it is quite certain that every acre of marsh land reclaimed within the next twenty years, will find willing purchasers or tenants.

On well drained land, such as we would wish to see made of our marsh lands, a farmer paying an annual rent of $100 per acre would realize fully treble the profits derivable from the cultivation of upland ground, as he is certain to raise crops, such as the upland ground, with any quantity of fertilizers, could not produce; and further, the question of expense in working such ground is important in supporting our arguments, as manures and fertilizers are wholly unnecessary, and a series of heavy crops can be raised for thirty years, without the soil requiring any stimulant in shape of manure.

Farmers complain that the most serious item in the expense of farming, is the constant renewal of the vitality of the soil by manure. In the case of reclaimed marsh land, the expense is saved, as even the soil itself can be used as manure on upland ground with great advantage. The plowing is also attended with more ease. No large boulders are met with to interrupt the work, or interfere with the proper tillage of the soil.

We have here, then, an investment for the capitalist, which will return him enormous profits; a rich and productive farm for the agriculturalist, that will yield him tenfold for his labor; a means of employing the thousands who are daily flocking to our shores from Europe; and last, though not least in importance, a means of providing an abundant supply of fresh, cheap food for the people, who are compelled to purchase the diseased meat, and stale and unhealthy vegetables, and diluted milk, which are to be found in our markets. All these advantages lie within our reach, and we should be blind, indeed, to our own interests did we not seize them.

RECLAMATION OF NEWARK (N. J.) MEADOWS.

The following notes taken from the engineers' field-books, of a test survey on the Hackensack meadows in the spring of 1867, will give a general idea of the kind of soil to be found on the salt marshes along our coasts and tidal river banks, being records of a series of experimental borings into the soil, made to ascertain the nature of the substrata for a depth of from nine to twelve feet. The boring was taken within fifty feet of the water's edge.

The soil in many parts of these marshes was tested, and with the exception of some difference in thickness of the various strata very little difference occurred in the several tests. The only marked variation in the character of the soil that occur, is where large cedar stumps are met, either on the surface or some three feet beneath it.

The roots of these cedar stumps are invariably sound, while portions exposed to the air soon rot away. The closeness of the soil, and the uniform state of moisture and non-exposure to the air evidently interrupt their decay. In some places the cedar roots showed on the surface, while in many others they were buried deep in the soil. In drainage the water is not removed to a greater depth than five feet, so that the surface mold and marls are dried while the grass peat beneath still holds the moisture to some extent. Drainage, without cultivation, will not, of course, develop the good qualities of the soil, but the two judiciously combined cannot fail to produce the results most beneficial to agricultural wants.

Even after the surface drainage, regarded as sufficient to insure thorough reclamation from a state of swamp, the surface soil when turned by a plow presents that rich and friable appearance so highly valued by a farmer. The growth of aquatic plants speedily becomes stunted, and a richer vegetation takes their place. Then with embankments securely constructed, and adequate pumping power or sluice-way provided, a thorough knowledge of the theory and practice of agriculture will enable the farmer to reap a rich reward for his labors.

Corn, potatoes, cabbages, onions, peas, beans, tomatoes, melons, and tobacco, have been grown on these lands, and the corn evidenced the great richness of the soil by the extraordinary growth which it attained.

A considerable area of this land is not yet fitted for cultivation, and another portion of it is covered with huge cedar stumps, the remains of a great forest; but the land is very valuable for farming, grazing, and building purposes, and is worth on an average fully $700 to $800 per acre.

The embankments erected around the meadows varied in form as the peculiar wants of the position demanded. As a general rule, the outer slope, or that which received the wash of the tidal wave, was much longer than the interior slope, and the width of the bank on the top varied from three to five feet. The mouths of all tidal creeks were carefully closed, and all connection with the outside water cut off. The complete exclusion of the river water was essential to success in this case, as in all others, and experience shows in a marked manner the value of pumping power as compared with sluices.

Lands

CAL. 10

No.

IN THE CIRCUIT COURT
OF THE UNITED STATES,
DISTRICT OF CALIFORNIA.

GUSTAVE TOUCHARD,
PLAINTIFF,

INV. 1898.

VS.

The City and County of San Francisco,
DEFENDANT.

ARGUMENT FOR PLAINTIFF.

EUGENE LIÉS,
Solicitor for Plaintiff.
DELOS LAKE,
Of Counsel.

SAN FRANCISCO:
B. F. STERETT, PRINTER, 533 CLAY ST., BELOW MONTGOMERY.
1867.

CALIFORNIA

25,109

IN THE

Circuit Court of the United States,

DISTRICT OF CALIFORNIA.

GUSTAVE TOUCHARD,
Plaintiff,
vs.
THE CITY AND COUNTY OF SAN FRANCISCO,
Defendant.

ARGUMENT FOR PLAINTIFF.

Early in 1863, when appeal to the District Court from the decision of the U. S. Land Commissioners was still pending, the plaintiff purchased a possessory right beyond the line of the city's claim, as confirmed by the Commissioners, but within the line adopted by the decree of the Circuit Court of May 18th, 1865.

He has held the actual *bona fide* possession from that day to this, and claims the benefit of the Act of Congress of March 8th, 1866; and, also, claims that he is entitled to the relief demanded under the decree of the Circuit Court, above mentioned. He also insists that this city is further precluded, by certain of its own acts, from asserting over the tract which he occupies any claim as against himself except for public uses, to be duly ascertained according to law.

It is submitted that if this was to be regarded as a case where two patents have been issued for the same land, the principles enounced in the case of *Ledoux et al.* vs. *Black et al.*, (18 How., 473,) would govern, and the plaintiff would be entitled to his relief.

But, I cannot view the Act of Congress as one patent, and the decree of this Court, on the dismissal of the appeal, as another. I shall consider them separately, and attempt to maintain, that, for the purpose of this suit, the plaintiff's right would be the same under either. But, I shall bear in mind that the Act refers to the Decree, and seems to have been suggested by it, as if the political power had been invoked to complete the labors of the Judiciary.

I.

ACT OF CONGRESS OF MARCH 8TH, 1866.

Keeping out of view, for the present, the rights which the city claims under the decree of the Circuit Court, I will examine the plaintiff's position under the Act of Congress of March 8th, 1866.

A peculiar characteristic, of the tenure by which a Spanish Pueblo held its common lands, was that *the supreme authority of the Nation always claimed, and often exercised, the right of alienating such lands.*

The claim is supported by standard authority. (Elizondo, Prac. For., v. 5, p. 226.(1))

(1.) The original not being at hand, I copy from the brief of Mr. Hawes, filed in the City's case, p. 21, the following passage:

Of the exercise of the right a few instances will suffice.

When Philip I., pressed by his necessities, promised by decree (L. 1, tit. 23, lib. 7, Nov. Rec.) that he would thenceforward asbtain from selling such of the common lands as the towns had reserved under the name of *propios*, he revealed to us the fact that he and his predecessors had been accustomed to alienate, not only the pasture lands, but also those choice spots of tillable ground, which, rented to individuals, furnished funds for the support of municipal officers.

A similar state of things is disclosed by Law 2 of the same book, where the sovereign undertakes

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§ 39. But this common use and servitude created by these general laws, and sustained during so many ages, did not restrict the Sovereign's full and absolute property in those common lands of *consejos* or *pueblos*, which, in the demarcation of limits, might be comprehended in their *terminos*, nor impair his right freely to dispose thereof; "for," says *Elizondo*, the "kings, fountains of jurisdictions, are the owners, (*duenos*) of all the *terminos* situated in their kingdoms, and as such can *donate* them, *divide* or *restrict* them, the same being true of their *pastos*, although the *pueblos* enjoy them, it being presumed that they are conceded only so far as respects their use and administration, the property remaining in the Sovereigns themselves, so that they may limit them afterwards, enlarge or restrict them, or give any new form to the enjoyment (*goze*) thereof. *Practica Universal Forense*, v. 3, p. 107. See also 108–112.)

§ 40. The same author in part 2, chap. 11, (v. 5, p. 226,) entitled, "*Recursos extraordinarios para la enagenacion y venta de los bienes publicos consejiles*," treats more largely of the subject, and considering many misconceptions into which American Lawyers, and the Courts, too, have fallen in relation to it, I beg your permission to copy his remarks at length.

"There is nothing whatever designated by law as belonging to towns, other than that which by royal privilege, custom, or contract between man and man, (*disposicion de los hombres entre si*,) is granted to them, so that, although there be assigned to the towns (*poblaciones*), at the time of their constitution a *territorio and pertenencias*, which may be common to all the residents without each one having the right to use them separately, it is a prerogative reserved to the princes to divide the *terminos* of the provinces, and the *villas*, assigning to these the use and enjoyment, but the dominion remaining in the Sovereigns themselves.

I also copy the following citation from the same Spanish author:

§ 42. "Upon the same principle of sovereignty, the princes may alter, restrict or enlarge the *terminos* once assigned to any town (*poblacion*) giving them new form, or revoking the ancient, without any *pueblo* whatever being able to acquire exclusive right to their *pastos* against the king, otherwise than by his privilege, (special grant,) or immemorial prescription."

For copious extracts from standard Spanish authors on this subject I respectfully refer the Court to the able brief of Mr. B. S. Brooks, in the case of *Steinbach* vs. *Moore*, in the Supreme Court of this State.

to bind himself and his successors never to alienate the vacant lands. A subsidy of seventeen millions was the consideration for this covenant.

The first Bourbon of Spain paid little heed to the promises of his predecessors. He saw that the system of common lands was bad and determined to attempt its suppression. He favored the alienation of vacant lands and established a Junta for that branch of the public service. But in 1746, the herdsmen recovered their preponderance. Ferdinand VI. yielded to the clamor.

Again and again, under Charles III. and IV., did the crown assert its right over those lands.

The Cortes, on the 4th of January, 1813, at a session where Mexico was represented, made use of the prerogative in question by decreeing that all vacant lands should be reduced to private ownership. None are excepted from the stringent enactment, save that certain narrow space around the walls deemed indispensable for convenience and salubrity, and known by the name of *ejidos*.

The operation of the decree was made co-extensive with the whole monarchy.

This control of the supreme government over the common lands of towns has been recognized by the State Courts of California. (*Hart* vs. *Burnett*, 15 Cal., 549. *Brown* vs. *San Francisco*, 16 Cal., 451.) In the last mentioned case (p. 459,) the following passage occurs:

"Nor does it by any means follow, that, because
"a particular tract of land falls within the general
"limits of a pueblo, this pueblo has such right or
"title to this land as to exempt it from the general
"operation of the granting powers of the Governor

"and Deputation. The whole course of our reasoning in *Hart* vs. *Burnett et al.* was opposed to this view of the character of pueblo titles."

Further on, the opinion proceeds thus:

"The whole matter of granting lands, within "pueblo limits, was subject to the control and "direction of the Governor and Territorial Deputa"tion." (*Ib.* p. 461.)

The Court was not obliged for the purposes of that decision to inquire whence proceeded this power of the Governor and local Legislature. That it proceeded, by delegation, from the supreme authority of the nation is apparent in the whole course of legislation, from the earliest laws of Indias to the Mexican decrees of colonization. And a glance at the passage in Elizondo, above cited, will show that the supreme government possessed and exercised the right, not only to grant specific portions, but also to restrict and circumscribe the area of town commons, and, indeed, to sweep the entire system away.

It is difficult to realize so anomalous a state of things, without first ascertaining how it arose.

The result of such an inquiry may be summed up in a few words. The system originated in war, and was perpetrated by fraud, violence and the ascendency of an oligarchy united by a supposed common interest. Like slavery, it was fatal to the entire commonwealth, yet *seemed* to be beneficial to a class. The Kings, sometimes because they were enlightened, always because they feared the growth of the class in question, attempted repeatedly to abolish it. They were supported only by the philosophers. The poor whom the system oppressed, the rich whom it temporarily favored, were alike attached to the monstrous deformity.

The towns preserved their commons. These remained "the exclusive property of stock," as Jovellanos says; that writer, so much in advance of his age, adds that all failed to see "that to devote the "vacant lands to common use was to dedicate them "to the rich." Under the influence of a dismal conservatism, the vicinity of towns remained a wilderness, closed to all improvement and to all labor save that which attends the pastoral life—and all this in the face of the unrepealed decree of Cortes, above mentioned, which had defeated its own ends, in providing that each province should enact special regulations to carry the distribution of town commons into effect.

The materials for this short summary have been drawn from standard authorities which will be set forth in another part of this argument.

I think I have shown that even on the untenable hypothesis that San Francisco held its lands under letters patent of the Emperor Charles, his successors retained to the last hour of their dominion, the right to circumscribe the area, to change the terms of the tenure, and even to take the lands away altogether.

To these rights Mexico succeeded. They were repeatedly exercised, through delegation of power, by the local authorities of California, particularly as regards San Francisco. The grants to Bernal, Ridley and Noe are instances in point.

Of all towns, San Francisco had the least reason to object to that exercise of power. Its municipal birth is attributed to the election of 1834, which, on investigation, appears to have been so little municipal in its character, that delegates from every little settlement across the bay participated in it. If it was born at that time, its sponsor was the 13th article of the Regulations of 1828, which says: "the re-"union of many families into one town shall follow, "in its formation, interior government and policy, "the rules established by the existing laws for the "other towns of the republic." * * * And one of those existing laws was the above mentioned decree of Cortes, which declared that towns should have no more commons. (See *Leyes Vigentes.*)

To these rights the United States succeeded by conquest and treaty. It was in the exercise of those rights that the Federal Government made, by proclamation, certain reservations which this Court has sanctioned and confirmed; distributed a portion of these lands by ratifying the Van Ness Ordinance, and completed the distribution by passing the Act of March 8th, 1866.

The right of the Federal Government to give away the public domain can scarcely be questioned. I think that I have shown that the common lands remained a part of the National domain, subject to a temporary and precarious right of pasture in common for the benefit of the inhabitants. This right was the utmost that could have been claimed by the town under a Mexican patent. The existence of such a patent was the utmost that could be established by any decree of the Federal Courts. Therefore the decree of this Court, in confirming the city's claim, only established that the inhabitants of San Francisco were entitled to the use in common of certain lands during the pleasure of the lord paramount. And it matters little whether the Act of Congress was passed before or after the final adjudication. It was competent for Congress to pass it after the issuance of a Federal patent confirmatory of the supposed patent from Mexico.

The limit of Federal and State rights cannot possibly be a subject of discussion in this case. Let it stand admitted at once that the exercise of the trust, while the trust lasted, might have been regulated by State Legislation. The subject matter of the trust belonged to the Federal Government and the trust, by its own terms, only endured by the sufferance of the owner of the eminent domain and was revocable at its pleasure.

How, then, stands the plaintiff in this controversy? He, one of the beneficiaries of the trust, entered upon, enclosed and occupied a portion of the subject matter of the trust. We shall see hereafter that he was amply justified in so doing. But, for the present, let us concede that his entry was so far tortious that he undertook to exclude his co-beneficiaries from the common use which appertained to all. At all events he succeeded in so doing up to the 8th of March, 1866, when the lord paramount, by a competent decree, abrogated the old trust and created a new one irrevocable, wherein he, the plaintiff, was selected as a beneficiary to the extent of his occupation. In him the fee, which before was in the General Government vested, subject to such regulations as the party selected to regulate the trust might impose. It no wise changes his *present* position that, previously to said 8th of March, a Court of competent jurisdiction had decided that the City of San Francisco, at the time of plaintiff's entry, held the land in controversy, by the peculiar and precarious tenure above mentioned, in trust for its inhabitants. The decree, if final, would have affected him to this extent, viz.: that from its date, and until the determination of the trust, the other inhabitants of San Francisco might have demanded the enjoyment of the premises in common with the plaintiff. Now, however, that the trust estate declared and confirmed by the decree is at an end, the operation of the decree, so far as the plaintiff is concerned, simply colors his entry retroactively.

There is another view that might be taken of this branch of the subject. It will be simply stated without comments.

The Circuit Court obtained jurisdiction of the cause in which the decree was entered solely and exclusively by virtue of a series of Acts of Congress, commencing with the Act of 1851, to ascertain and settle land titles in California. In a number of instances that same Congress has assumed the authority, hitherto unquestioned, of providing by special acts for particular claims, some of which were pending, under the provisions of the general law, before the Federal Courts. In passing the Act of March 8th, 1866, the Congress simply excepted the City's claim from the general law, and thenceforward the Federal Courts lost all cognizance and jurisdiction of the same.

In another branch of this subject, it will be made apparent that legislation by Congress was indispensable in order to carry out the intent of the decree

CALIFORNIA

of this Court confirming the City's claim; and that the Act of Congress, is, in substance, a declaration of private rights under the provisions of that decree.

Under the enactment in question, the right of the plaintiff to the relief demanded is apparent. The Act institutes two beneficiaries only, the occupant and the public use. The power of the State Legislature is confined to making provision for these two objects. It may prescribe certain terms and conditions, and may regulate quantities. But whatever is taken from one of the two *cestuis que* trust must go to the other and not elsewhere. The plaintiff does not claim in this suit immunity from any of the conditions reserved by the Act; he stands ready to surrender "such parcels as may be reserved and set apart by ordinance"; indeed he is a petitioner for the land in controversy under the provisions of Ordinance No. 733. He is willing to abide the terms and conditions that may be prescribed by the Legislature of this State; but he insists that the Legislature can prescribe no terms or conditions, nor limit the quantity of his occupation, except in strict accordance with the intent and meaning of the Act of Congress; and that, therefore, nothing which the Legislature may lawfully do can abridge his right to the remedies prayed for.

The Act of Congress provides that the city may "reserve and set apart, by ordinance, certain parcels" of those lands for public uses. Apply the foregoing view to this state of things, and it will be found that Ordinance 733 has anticipated the possible exercise of power by the Legislature in regard to quantity. In reserving parcels for public use, it marks out the share of one of the two beneficiaries. The surplus must go to the occupant.

It will be seen that the ordinance in question also anticipates the action of the State Legislature in other respects where the power of the municipal legislature is not quite so clear. It imposes terms and conditions, some of which are very burdensome. But this assumption of power will be deemed to have been practically sanctioned in view of the numerous petitions filed under the ordinance.

II.

THE DECREE OF THE CIRCUIT COURT.

Let us now suppose that the rights of the respective parties rest altogether upon the decree of this Court confirming the city's claim, irrespectively of the Act of Congress of March 8th, 1866.

The Court's opinion was filed October 31st, 1864.

The decree thereon was entered November 2d, 1864, but afterwards vacated and a new decree was entered May 18th, 1865. It concludes with these words: "This confirmation is in trust, for the bene-"fit of the lot holders under grants from the "Pueblo, Town or City of San Francisco, or other "competent authority, and as to any residue, in "trust for the use and benefit of the inhabitants of "the City."

In attempting to construe these words we must never lose sight of the following considerations:

1. The Court obtained jurisdiction solely under the Act of 1851, to ascertain and settle the private

land claims in California, and subsequent Acts of Congress supplemental thereto.

2. It was "governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, "usages and customs of the Government from "which the claim is derived, the principles of equity, "and the decisions of the Supreme Court, so far as "they are applicable." (Sec. 11.)

3. If the confirming words will bear the interpretation, we are bound to understand that the "use and benefit of the inhabitants," mentioned in the decree, is such a use and benefit as, previously to the change of flags, the inhabitants of San Francisco exercised and enjoyed, under their "laws, usages and customs" in the lands confirmed by the decree; and that, no propios appearing to have been reserved, the land in controversy must be regarded as part of the general commons.

According to the ancient laws, usages and customs of Spain, those open grounds were never to be desecrated by the hand of labor. No house should be erected there. No fence should impede the free transit of cattle. In this view the grounds in question were dedicated to the use and benefit not of *all* the inhabitants, but of those only who owned live stock. The others were benefited only insomuch as beef and mutton were made more accessible. Other interests were injured to such an extent that prominent writers have attributed the decay of Spain in great part to this cause.

"No country," says Escriche (*Baldio*,) "can equal Spain for its area of uncultivated lands. This condition of things dates from the Visigoths. Their conquest, and wars which followed it, depopulated the country and left large tracts of vacant lands, which these barbarians, disinclined to agriculture, dedicated to the more congenial pursuit of stock raising." Thus the pastoral interest took deep root in Spain, and the constant raids of the Moors tendered to foster it by the same influence which makes all borderers pastors. This interest exercised vast control in shaping the destinies, the national character and the legislation of Spain. Consult Escriche art. Ganado, and the several references he there gives. The pastoral laws in Fuero Juzgo show how strong that interest was at the date of that compilation. Time but added to its power.

"After the expulsion of the Moors," says Jovellanos, "the vacant lands should have been immediately reduced to agriculture. Policy and Mercy alike demanded an increase of food which the increase of population had rendered more necessary, but both took the course directly opposite. Policy, finding rooted the fatal system of pastoral legislation, favored it so much that it made vacant lands the *exclusive property of stock*, and Mercy considering them as the patrimony of the poor, struggled to preserve them—both failing to see that to devote the vacant lands to common use was to dedicate them to the rich.

This pregnant remark is further elucidated by Escriche, *Bienes Comunes:* "These *bienes comunes*, wherein the whole belongs to each one of the commoners or joint owners, and to all of them together, should be divided, (*deben repartirse.*) since such a community is more prejudicial than advantageous, and is a perpetual source of discord; because property so held, daily loses value, no one having any interest in improving it; and because, under an apparent equality, there is a positive inequality, the strong growing rich at the expense of the poor."

It seems that the necessity of encouraging agriculture by making grants of the common lands was early felt, and that some steps were taken in that direction. But so powerful was the pastoral aristocracy, and so keenly alive to its own peculiar interest, that Philip II. in order to obtain an extraordinary subsidy to repair the loss of the Armada Invencible, had to decree that no more judges should be appointed to sell common lands, which cities, towns and places had held as *propios*—that no more judges should be sent to sell or re-measure public lands, etc., L. 1, tit. 23, lib. 7, Nov. Rec.

The next two Philips in consideration of further subsidies (17 millions) went further and bound themselves and their successors never to alienate the vacant lands. L. 2, same title and book.

The first Bourbon of Spain came from a country where the benefit of agriculture was somewhat known. He had small sympathy with the cattle interests of Spain. The policy of sovereigns and the traditional policy of his own family, were to curtail the power of aristocracies. Nor did he feel that subsidies voted to the house of Austria bound the conscience of the grandson of Louis XIV. He favored the alienation of vacant lands, and established a Junta for that branch of the public service. From that moment to 1746, the noble herdsmen never ceased their agitation. Ferdinand VI. yielded to the clamor. The alienations of vacant lands were annulled. The Pueblos were "reintegrated in their propios, etc." *Ley* 3, *same title and same book, and notes to such title.*

Further attempts by Charles III. and IV., to promote the settlement of vacant lands, were nullified by the manœuvres of the predominant interest.

The law of the Cortes, of 4th January, 1813, was rendered almost inoperative in Spain, partly by its own terms and partly by the Restoration.

In 1818 Ferdinand VII. made another endeavor with the like success. Escriche says: "It is needless to say that these provisions remained without execution. The stock owners, who, in all times have combated the enclosing of hereditaments, in order that pasturage should not grow less, have opposed themselves for the same reason, to the alienation and cultivation of the vacant lands; and the influence of the stock owners has been stronger than that of the cultivators; and to no purpose have statisticians proved that the increase of cultivation would increase the number of cattle."

As to that part of the vacant lands called *tierras labrantias de Propios o Consejiles*, though their partial cultivation under short term leases was provided for, (L. 17, tit. 25, Lib. 7, Nov. Rec.,) the system adopted seems the best calculated to hinder permanent and serious improvement, while the *Ejidos* were carefully kept sacred from the hand of the laboring man. (See Escriche *Ejidos.*)

Whatever may be obscure in this matter these things are clear, viz: that, at the time, (1793), when Jovellanos wrote his celebrated informe on the ley agraria, there had grown up a system of towns commons throughout Spain; that *vecinos* of towns claimed and exercised the right to pasture their cattle in common over certain large tracts, whose freedom from inclosures and inalienability were strictly guarded; that within those tracts, certain specific ones only could be inclosed for agricultural purposes under leases for short terms; that the authority to alienate all these lands lay in the crown, and that the sovereigns, after repeatedly exercising that right, had, in consideration of subsidies, promised to exercise it no more, nor delegate it to any one; that the parties interested in perpetuating that system were the wealthy stock owners residing in towns; their stock ranged on the vast commons, their municipal outlays were borne by the precarious cultivator of the lands devoted to the municipal fund, called *de propios y arbitrios.* Against the prevailing system were arrayed the instincts of the cultivators of the soil, craving the ownership of the lands which they only possessed under yearly leases.

The first permanent victory of the latter was the ordinance of Charles IV., under which the *propios* could be leased for five years. But it was not until 1834 that the recommendations of Jovellanos were carried out. For the law of 1813, which provided for the *reduccion a propiedad particular* of all the *terrenos valdios o realengos, y de propios y arbitrios,* not only in Spain, but in the provinces of *ultramar,* did not go permanently into effect in the mother country. Section IV of that law provided that the provincial deputations should propose the particular regulations most suited to each, for the carrying out of its provisions.

The war of the independence and the system of absolute monarchy, established in 1814, nullified the decree. Yet the law of Cortes of 10th May, 1837, purports to protect the rights acquired under its provisions at the two periods when it was in force. This must have been during the first brief reign of the Constitution of 1812, and at its reinstatement in 1821.

But in New Spain it was proclaimed as a law, and was published in 1829 as one of the laws of Spain, in force in Mexico.

In inditing their laws for the Indies on this subject, the Spaniards had not to contend, as at home, with the prejudices arising from a long settled system. Their legislation could therefore be more liberal—indeed must be, in order to induce immigration. While therefore, title V. L. IV of the R. I. provided that towns in the new world should be founded somewhat after the pattern of those of the mother country, and while the system of *ejidos*, (viz: a free vacant space around the towns for recreation, etc.) *propios*, (viz: an apportionment of lands to be rented for the support of the municipality,) and *dehesas*, or open fields for the pasturage of the cattle of the inhabitants, is prescribed much after the Spanish models, yet the king retains the power to grant lands within those boundaries to new settlers; and whatever doubt there might remain as to the tenure of the lands to be distributed, (*repartido*,) is dispelled by Law 1, of the 12th title of the same book, which provides that the settlers after four years' residence may sell their lands.

California, settled more than two hundred years after those enactments, at a time when the pueblo system was causing much agitation in Spain, attacked as it was by able writers, might expect and indeed enjoyed the full benefit of those circumstances. Settlers received at once grants in fee, the size of town commons was confined to a stated extent, and the power of the crown or its authorized officers for making future grants was distinctly asserted, except as to such lands as should be specifically reserved for municipal purposes.

To the history of the legislation on this subject, set forth in the early part of the opinion of the Supreme Court of California, in *Hart* v. *Burnett*, we find nothing to add; let us, however, remind the reader that its spirit was to encourage the cultivation of the soil, and that the decrees of the Cortes, of 4th January and 8th June, 1813, were in force in Mexico. But it may be interesting to inquire how that legislation was carried out in California.

Neve found, even in the earliest days of the territory, that special legislation was required. His ordinance, a liberal one for the age, remained the fundamental law. It is republished with amendments in the laws of 1828, but not re-enacted. It was considered then in force, however, like many other Spanish laws and ordinances, with the exceptions and reservations noted in the preface to the Leyes Vigentes. His successor found it necessary to depart from his injunctions. The development of the territory had enabled him to discover its wants. In November, 1784, he proposed to grant stock ranchos in the neighborhood of pueblos.

The answer of Galindo Navarro is that of a reactionist. He appeals to the ordinance of Neve and to the Law 6, tit. 4, Lib. 4, of the Recopilation, for the consecration of four leagues, to the common use of towns. Avers that the Governor neither could nor ought to make grants of stock tracts within the *termino* assigned to each pueblo. He justifies also the policy of the inhibition on account of the advantages arising from the common enjoyment of pasture, so that cattle, "the true wealth of nations," should not be monopolized. He urges that the four leagues should be marked out at once.

Whatever may be thought of the policy of these recommendations from Chihuahua, it can scarcely be pretended that the assessor did not fairly, though rigorously, state the law. Authority, for the granting of stock lands within the termino of pueblos, must, therefore, be searched for after the date of the opon, (1785) if a termino was ever assigned, according to law, to a pueblo in California.

In 1786, under a commission from Pedro Fages, commandante Inspector of California, the Ensign of the Presidio of Santa Barbara proceeded to grant *suertes* to various settlers at Los Angeles. Four years afterward that pueblo contained one hundred and forty-one inhabitants; one was European, seventy-two were Spaniards, the rest were Indians, mulattoes and mestizos. Had only half that number possessed the maximum of cattle provided under Neve's ordinance, viz: fifty head, the four leagues would have been fully stocked at the rates established by experience in California, viz: one thousand head per league. The excentric mode of measuring the space for commons, recommended by Nava, by which the four leagues would become sixteen, would have to be resorted to whenever three hundred persons possessed the prescribed maximum.

In 1789 Felipe de Neve issued special instructions as regards Los Angeles. They are conformable in substance to the ordinance of that officer, when Governor of California, reported by him in 1775, and approved by the King in 1781. His injunctions are very particular. Rules for plaza, streets, a distance of two hundred varas between planting lands and building lots; the size of both kinds of land, reserves for government and religious buildings, are specially provided for. Of the lands susceptible of irrigation, a part shall be distributed (*repartir*) to the settlers, and part shall be reserved for *propios*, and a part as *realengos*, to be granted to future settlers. This last reserve defeated the former. So long as *realengo* lots were to be had for the asking, no settler would take up *propio* lands subject to a yearly rent. The local authorities turned the difficulty. No propios were assigned, and all the lands remained as *realengos*, susceptible of gratuitous grant.

In 1791 Pedro de Nava, armed with an assessor's opinion, determined, by a decree, that notwithstanding Art. 81 of the Ordenanza de Intendentes, Captains of Presidios may distribute (*repartir*) building lots and lands to soldiers, etc. *Considers* that *four* common leagues shall be enough for pueblos. *Wherefore* they are to be measured off—two toward each cardinal point from the center, making *sixteen!* Captains shall confine their grants to lands *within* those limits. The land outside remaining at the disposal of the Intendentes.

But notwithstanding all these and many other injunctions, no attempt, (with partial exceptions which need not here be noted,) was ever made in California to establish the eminently artificial scheme which the law contemplated. The very fact that the scheme was artificial constituted an obstacle. But there were other reasons. The town saw no object in petitioning for boundaries. The town cattle were not very numerous, for the liberal system of colonization provided remote tracts for the raising of stock. They possessed their common pastures by prescription or by accord with neighbors, as well as they could under authority of special enactment. They felt secure against the encroachment of the granting power, which seldom, if ever, alienated any lands, within their reputed boundaries, without consulting the local authorities. Besides, under this vague tenure, they escaped the annoyance of a complicated administration of propios, of which they had heard somewhat without understanding what it meant. On the other hand, the executive was not always anxious to press the matter, and, whenever it did, the legislature thwarted its views, and embraced the policy of inaction. Indeed the subject was full of difficulties. Pueblos were of slow growth; their location transient and precarious. A boundary set today might be found very inconvenient in a short time. There were also special obstacles innumerable; jealousies of military commandants or of priests, questions of secularization and suspensions thereof; constant revolutions, apprehensions of foreign speculations or foreign conquest. Besides, as late as 1830, it was deemed questionable whether, even at Monterey and Santa Barbara, there were a sufficient number of persons of common intelligence to form ayuntamientos.*

I cannot too much insist then on the marked distinction which was originally established and continued to exist between the pueblo systems in Spain and California.

In the mother country a stated tract, consisting of some of the most fertile of the town lands, was cultivated by leaseholders, whose rent went to the municipal fund of propios and arbitrios; all the rest of the common lands was incapable, not only of alienation, but of cultivation and enclosure. This state of things was deemed a privilege, and had been acquired by long usage and the concessions of monarchs. The extent of the commons of pasture was not prescribed by enactment. Assertion of title for a length of time often constituted the only title. Of course the action of *amojonamiento* furnished an interesting chapter in Spanish litigation.

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* The President afterward said that, under date of 15th December, 1820, he published a *Bando* in the Territory in consequence of the provisions of article twelve, of chapter three of the Decree of the Cortes of 23d of June, 1813, with the object of placing Ayuntamientos in the presidios of Monterey and Santa Barbara, notwithstanding the little aptitude of the individuals who were in those places to fill such offices, but that, nevertheless, it did not seem to him amiss to begin to give their inhabitants the knowledge of that class of political authority, which they had never had, with the hope that, when the Ayuntamientos should be installed in due form, there might be persons of information and instruction as to the matters and duties committed to those bodies by the laws. That it being within the duties of the Deputation to take care that they be established in good form, after taking the proper reports according to article one of chapter two of said Decree, he asks that this body now proceed to consolidate this of Monterey. That, with this object, he demanded from the present Alcalde the census of the inhabitants that belong to this jurisdiction, and it results that with the annexed ranchos it has more than one thousand souls; and that, in consideration of all the foregoing, this corporation should proceed to take all the steps that are necessary to form the record of preliminary proceedings (*Espediente instructivo*) which the law requires, beginning by designating *ejidos* to the town; and for his part, he recommends that consideration he had for the ranchos or *sitios*, one of which belongs to the public domain, which, until now, holds it as property for the support of cattle, which, in the way of law or tithes, are kept there and yield support for the troops; the other where the company has always kept its horses; these *sitios* are very near this town, and he asks that they may be separated from those that may be proposed for *ejidos* of the town.—*Extracts of the Proceedings of the Territorial Junta of July 23d*, 1830.

In California the Spanish system was attempted to be introduced when it was already somewhat declining at home. From the very inception lots were granted in fee to settlers, and the very ordinances that directed that commons should be set out, and that, within their limits, certain lands (never specified) should be appointed for the municipal fund of *propios*, also directed that certain other lands should be deemed *realengos*, and susceptible of grant in fee; and, as no classification was ever made, any part of the commons might be considered as belonging to the latter class.

We have seen that so much of the decree of Cortes of 1813, as provided for the distribution of town lands, remained a dead letter because the local authorities failed to enact those specific regulations which the decree contemplated. Nevertheless, it remained the law, that these lands should cease to be common, and become the freehold of individuals; and that, in the distribution, the *inhabitants* should have the *preference.*

In the 77th article of the law of the Mexican Congress of March 20, 1837, the authorities of California thought they saw the needful machinery which the decree of Cortes of 1813 had left for each province to provide. They directed the prefects to proceed, under that authority, to the distribution of town lands. The distribution, however, had been going on long before that time.

This question of distribution seems to have sorely exercised many persons besides those who have lately undertaken to agitate the subject. A member of the bar, in publishing the decisions of *Hart* v. *Burnett* and *Holliday and Frisbie*, with his own notes and comments, has favored us with the doubts and queries of a learned Mexican jurisconsult, Licenciado Jose L. Ramirez. He says that the common lands to be distributed can scarcely mean the common lands of towns, "because only "that common thing is partible the domain or "property of which pertains to a certain and "determinate number of persons who possess it *pro* "*indiviso*. None of these qualities are found in "*tierras concejiles;* nor in *ejidos* or *dehesas*, because "our civil law declares them to be of *dominio* "*publico*, and not for the use or enjoyment of any "particular class or certain number of persons, but "for all the residents of the towns, without distinc-"tion of classes or persons." (Part. 3, Tit. 28, ley 9.) Op. cit. 168.

Another sage doubter was the Prefect of the Second District of California, in 1839. Being ordered by the Governor to commence the distribution of the common lands of Santa Barbara, by bestowing a certain rancho on a person who had petitioned for it, he answers that he cannot do it, because the common lands have not yet been measured.

Of these two Mexicans, one was troubled for the want of a divisor, the other at his wit's end for a dividend.

The error of both consisted in assuming that the distribution must necessarily be mathematically correct. In their view, a lot must be forced upon every human being who was unfortunate enough to be a resident at the time of distribution. In their view, lately adopted by certain agitators, these lands should now be surveyed, a correct census of all the inhabitants taken, and each of these, irrespective of age, sex, color or race, be requested to accept in fee his, her or its respective share in kind. When the difference in value of each particular quotient is suggested, the only answer is that we should proceed by lot.

The local Mexican authorities steered clear of these absurdities. They respected the ancient Spanish law, by admitting the cattle of the inhabitants to a free range over the commons. They obeyed the spirit of the decree of Cortes by hastening to grant portions of the commons to such of the inhabitants as petitioned for them. These granted portions would vary in size, according to the necessities of the petitioners or their means to cultivate and improve what they petitioned for. The salient principle of the decree of Cortes was not so much the distribution, which was left to the various provinces to regulate, but the reduction to private ownership of what before was held in common.

Sometimes, also, they undertook to reconcile both principles; as when Figueroa (see Expediente 31) granted to Martina Castro the Shoquel Rancho, within the commons of Branciforte, subject to the right of pasture of the other inhabitants of the town. A subsequent administration relieved the grant from those conditions.

It is scarcely worth while, at this late day, to burden these remarks with citations of the numerous and well-known instances where petitions for portions of town commons reveal the fact that the petitioners had been, for a long while, in the actual possession of the lands they solicited, without any other grant or permit, than the silent acquiescence of the municipal authorities. Many of the expedientes alluded to in respondent's brief in Brown v. San Francisco, furnish instances. Note 17 to the edition of *Hart* v. *Burnett*, above referred to, illustrates this position.

That portion of the Peña expediente, whose authenticity no one dreams of assailing, shows that petitioner was in possession of lands, situate near the land now in controversy, long before the dates of his petitions.

Pablo Valiente, in urging the famous *repartimientos* of Cuba, gives us to understand that the common lands of the realm, as well as those of the towns in that fertile island, had been appropriated by individuals without title.

The laws of the Seventh Title of the Fourth Book of the Recopilacion de Indias, from the fourteenth of those laws to the end of the title, demonstrate that throughout Spanish America, at that early date, the commons of the towns had been in many instances taken up by persons without title. The provisions of those laws aim at correcting such irregularities, but, in no instance, do they propose to dispossess the settler.

The whole contents of the archives in the keeping of the U. S. Surveyor General for California, manifest that actual possession without any title, established a right in the possessor which could not be violated by the interference of the granting power.

Expediente No. 337 shows a case where prior possession was held to be a better title than a grant of the Illustrious Ayuntamiento of Los Angeles. True, the prior possession in that instance was sanctioned by a leave from the captain of the neighboring Presidio, but such leave was to occupy in common with such of the other inhabitants of the town as might choose to join in the occupation. It appearing that none others had chosen to join, a final grant was made to him alone.

The Missions took up what land they needed without stint. In no case was a grant issued. A kind of registry was once attempted under the auspices of the Government of the lands they occupied, but nothing more. So long as they held them by occupation, no one interfered.

Individuals proceeded much in the same way, especially before the publication of the Decree and Reglamento of Colonization.

"Distribution," therefore, had been going on from a very early period of the country's history, sometimes under the law, sometimes in advance of it, and not unfrequently against it altogether. And the chief agency of distribution was individual initiative occupation.

If the learned Ramirez, and the learned Prefect of the Second District, reading too literally the provisions of the decree of January 4th, 1813, which ordered distribution of the town commons, and also those of Art. 77 of the law of March 20th, 1837, authorizing the prefects to regulate such distribution, were so much appalled at the difficulty of the task, that the former actually denied that the laws in question did, or could, refer to the common lands of towns, while the latter postponed all action to the time when the outer lines of town lands should have been run—what would they say now, when the difficulties of the operation, *as they understood it*, have increased a thousand fold?

The area is the same, but the number of inhabitants has increased at a wondrous rate. Asia, as well as Africa, has furnished her quota, and our State Constitution provides that bona fide resident foreigners "shall enjoy the same rights in respect "to the possession, enjoyment and inheritance of "property as native born citizens." (Art. I., Sec. 17.)

The solution of the whole difficulty lies in the course taken by the Mexican authorities, pointed out by the Act of Congress of the 8th of March, 1866, and, as I understand it, enjoined by the decree of this Court. That is to say, the distribution of these lands should not proceed in a wasteful, extravagant manner, but according to the usages and customs prevailing before the change of sovereignty. The area should not be divided into as many infinitessimal fractions as there are inhabitants in the city, but the legal title now in the city should "be disposed of and conveyed" to *such* of "the inhabitants" as, among the many vocations which attract the denizens of a crowded city, may have chosen and elected that of reclaiming the wilderness; such vocation being best signified from the fact that they have improved and occupied certain portions; the pro rata of each being commensurate with his ability to reclaim and improve, and that again being easily ascertained by the quantity taken up by each.

I have said that we were bound, if the words would bear the construction, to interpret the decree by the light of the ancient laws, usages and customs in force before the change of flags, and shown what the usage was. I now say that we are bound to interpret the decree so that it shall lead to none but reasonable conclusions. And we must either interpret it in the manner suggested, or be led to the conclusions which appalled the learned Ramirez and the learned Peña, prefect of the second district, in 1839.

Neither the decree of this Court of November 2d, 1865, nor that of May 18th, 1866, speaks of *all* the inhabitants of the city. There is no intimation that they should all be benefitted in the same manner nor at the same rate. Under any system such a result would be impracticable. Even absolute agrarian distribution would fail to accomplish that result. And if that method were to be adopted, the basis to be selected is anything but obvious. Should the census have been taken immediately upon the entering of the decree, or shall it be taken ten years hence? And if distribution was as much incidental to the tenure before as after the entering of the decree, what justice is there in putting off the pioneer of twenty years' standing with his pro rata of to-day, when early in 1847, he was entitled to a much larger distributive share, the population being smaller? To him, according to the view I am assailing, the passage of that beneficent measure, the Van Ness Ordinance, was an act of robbery. In the lands then donated, *he* had a direct interest which that measure deprived him of.

But he makes no such complaint. There is no possible scheme of actual distribution, either in kind or value, that would affect all the inhabitants in an equal and proportional manner. And the same is obviously true of their enjoyment in common. Agrarianism, that specious folly of the past, formed no part of the policy which dedicated those lands, nor of that other policy which enjoined their distribution; it cannot, therefore, be deemed to have inspired the decree of this Court. The occupant, who, failing all needful machinery for distribution, has entered, peaceably, and with the silent acquiescence of the claimant of the legal title, lands in which it is conceded that he had some interest, is entitled to the same protection, under an adjudication which purports to rest on Mexican law, as he would have enjoyed had that law remained in force in all its parts to this very day.

I am free to admit that the decree does not, in terms, allude to rights gained by occupation. These it could hardly be expected to define, in view of the conflicting enactments, and various and uncertain usages to which allusion has been made in these pages. To refer the occupants to their rights under the Mexican laws, would have been nugatory, since the officers appointed by those laws to sanction and establish those rights, no longer exist. The very vagueness of the concluding words of the decree, suggested the necessity of legislation. Hence the Act of Congress of the 8th of March, 1866, which far from being in conflict with said decree, completes it and furnishes some tangible means of carrying out its spirit.

Among the many precedents for this kind of legislation, I would refer to the Act of Congress of

June 12th, 1866, and the various acts therein alluded to in regard to the quieting of titles in the city of St. Louis, Missouri.

In conclusion of this branch of my subject, I maintain that the rights of the plaintiff, not as against the United States, but as against the defendant herein, would have been the same under the decree of this Court confirming the city's title as under the Act of Congress of March 8th, 1866. For, in preparing the foregoing remarks, I have drawn my materials from the opinion of Mr. Justice Field filed in the city's case, and those "elaborate opinions" to which he invites the inquirer's attention.

III.

ESTOPPELS.

If the plaintiff aimed to appeal to certain popular views of Equity, he might have shown that he purchased, for a valuable consideration, the tract in controversy, from persons who had entered it peaceably, and occupied it, without let or hindrance, for a great many years.

He prefers to rest upon the admitted facts, that he entered peaceably on the 30th of January, 1863, and has ever since occupied and possessed it to the exclusion of all other persons. That from that date to the commencement of this suit, the entire tract has been surrounded by a substantial, legal fence; that during the same period there has stood within the enclosure, a convenient and suitable dwelling, occupied by the tenant of the plaintiff; that all State and County taxes have been paid thereon, and that he has applied by petition for a formal grant, under the provisions of Ordinance No. 733.

At the date of his entry, the City's case, No. 427, stood on appeal in the U. S. District Court, from the decision of the U. S. Land Commissioners. (See the order of Judge Hoffman transferring the cause.) The Commissioners, Mr. Felch dissenting, had decided that the City was entitled to a tract bounded by the Bay and a line running straight from Point Lobos to Mount Devisadero, and thence to the head waters of Mission Creek; thence along its course to the Bay.

The dissenting Commissioner was of opinion that the City's title should be confirmed only up to its charter line, in trust for the benefit of the lot holders.

As the view taken by the Supreme Court of this State in the case of *Hart* vs. *Burnett*, of the rights of the City of San Francisco is supposed to be comparatively novel, it may be well to remind this Court that, as early as March 9th, 1850, Mr. Wm. Carey Jones, confidential agent of the Government of the United States, had recommended a grant of just such a tract of land as is described in the confirmatory decree of this Court, viz.: "A release "of Government claims to the extent of four "leagues, measuring south from the Presidio, and "including all between sea and bay, with suitable "provision for protecting private rights, *whether* "*under old grants or by recent improvements*, and "reserving such rights as the Government uses may "require."

The able report from which I have quoted the foregoing words, reaches that conclusion through a

CALIFORNIA

train of reasoning and investigation very similar to that of the celebrated opinion above cited.

The assurance of the City in petitioning for a tract of four leagues, may be accounted for by a report of Mr. Jones, as well as by section 14, of the Act of Congress of 1850. The City hoped that Congress might act upon the recommendation of the confidential agent of the Government, or that, perhaps, her supposed Mexican patent might be exhumed, in which latter case it would be sure to be for four leagues, according to law—though not according to any uniform precedent—for, if her counsel had then heard of the instance of Pitic, they must have also heard of those of Los Angeles, Monterey, Santangel, Branciforte and Ciudad de Mejico, where a far different apportionment was made, or attempted to be made.

Time wore on ; Congress neglected to act ; proof accumulated to rebut the presumption of a grant founded on the 14th section of the Act of 1851. Something must be done to bolster the claim. Something *was* done. The Zamorana document was born. On this alone, and on the oral testimony to which it is annexed as an exhibit, did the majority of the Commissioners decide upon the validity of the city's claim up to the line indicated.

The dissenting Commissioner refused to believe in the genuineness of the document, or in the truth of the testimony which supported it.

This Court says ; "The spuriousness of that document is now admitted by all parties." (Opinion of Mr. Justice Field in the city's case.) This statement is not only true, and known now to be true, but the spuriousness of the document was ably demonstrated by Commissioner Felch in his dissenting opinion, and was proclaimed on all occasions by competent judges of such matters. Indeed, the concocters of the fraud soon quarreled over a division of the spoils, and revealed the iniquitous mystery, much to the scandal of the community.

Nevertheless I have always entertained the opinion that the fraud in question was created upon a substratum of truth. I may be permitted to copy here some remarks from a brief which I addressed some seven years ago to the Supreme Court of this State:

"Of the two, I think the Vallejo line the nearest to the truth, for several reasons:

"1. Because Vallejo assigns it. This reason is given in all sober earnestness. If we assume that he wilfully perjured himself, we may nevertheless expect that, in inventing the fable, he took care to make it as plausible as possible.

"2. Some line must have existed. The cattle of the presidio, and those of the mission cannot have been permitted to range indiscriminately over the same grounds. The first rule of herding, as practiced in California, makes such a line indispensable. Elsewhere it was strictly observed. Los Angeles might have no boundaries, but it never ventured to lay claim beyond a line considered as the line of S. Gabriel, or beyond another considered as that of San Fernando. Santa Barbara, when it prayed for planting grounds, looked eastward along the coast, and not in the opposite direction toward the land of the mission. Branciforte never dreamt of interfering with Santa Cruz, nor Monterey with San Carlos. Indeed the assignment of boundaries of 1830 shows one of the lines passing barely at about one league from Monterey, so as to avoid interfering with the mission. The San Jose committee, who respected no distances, avoided interference with the neighboring missions, except perhaps that of Santa Clara, with which the town had long been at issue on this question. There were recognized boundaries, or contests about boundaries, everywhere between the pueblos and the missions; and the natural features would seem to suggest a line very near the Vallejo line for the boundary between San Francisco and Dolores. On the other hand, it seems very extraordinary that authorities which had neglected, or refused to assign the boundaries of ancient and comparatively well organized pueblos, should have assigned those of San Francisco on the very day when they decreed that it might have leave to organize. It seems also rather strange that so correct an officer as Figueroa should have sanctioned the unauthorized act of any single individual for so solemn a proceeding as the tracing of the boundaries of the property of a corporation. The utmost he could have done would have been to commission him to propose a line. In the case of San Jose, Alvarado recommends that the Ayuntamiento do name a committee of three to run the boundary, their proceedings to be returned to the Government for action. In the case of Monterey, the Legislature, at the request of the Executive, assigned, without further ceremony, boundaries for the town commons in 1830. But this proceeding must have been considered void, as five years afterwards we find the Ayuntamiento moving for a new assignment, and laying their own plat and survey of commons before the Legislature for approval. It is true that Micheltorena *ipso moto* appointed a committee of three to survey Branciforte. But that officer claimed extraordinary powers, and even he forebore to appoint himself more than two members of that committce, the third was left to be appointed by the Secretary of State. So that the supposed commission to Vallejo has no parallel, except that other equally strange commission given to Gumecindo Flores.

" 3. Long after the date of the Zamorana document, and also after the date of the pretended assignment of boundaries by Flores, the establishment of Dolores had, and maintained, a separate and distinct existence.

In support of that opinion, I might add that the military commandant was obliged to lease the rancho of Visitation (see case No. 5, N. D.) for pasturage of the stock owned by the soldiers of the Presidio of San Francisco, at a time when, under the four league theory, the ungranted pastures of San Miguel lay at the very gates of that Presidio.

Be that as it may, the city's claim, at the date of the plaintiff's entry upon a piece of land within the four leagues, but without the Vallejo line, stood confirmed to that line on the faith of documentary evidence, *produced on behalf of the city*, and the Attorney General had withdrawn the appeal on the part of the United States in February, 1857.

It may be fairly presumed that the Attorney General, in withdrawing his appeal, was somewhat governed by the readiness with which the city had dedicated some of the lands within the claim to the very purpose for which such lands are donated to towns by our Government, and were donated to pueblos under the former governments, viz.: had quit claimed them to actual possessors by the famous Van Ness Ordinance (1855), and, by this precedent, had so bound itself to the policy, that any departure from it, in regard to the residue of the lands claimed, seemed all but impossible.

Indeed, about the time of the passage of that ordinance, and for several years thereafter, the city manifested in every possible way her want of confidence in its claim for land preferred to the Land Commission. The first section of that ordinance commands the Mayor to enter the very lands which form its subject matter at the proper land office at the expense of the whole community. Meanwhile, the claims of various individuals, under supposed grants to Santillan, Limantour and Benito Diaz, covered the whole area claimed by the city. The defeat of those claims was left solely to individual effort, and I cannot call to mind a single endeavor on the part of the city to defeat those conflicting claims, or to bolster her own, until the transfer of Cause No. 427, from the District to the Circuit Court of the United States, December 5th, 1864.

The city has accepted the trust created by the Act of Congress. By Ordinance No. 733, she acknowled not only the present right of the plaintiff, but she avers that his right was valid five years ago, and has been so ever since, by compelling him to pay State and City and County taxes for that period.

If an individual had so bound himself with disclaimers and quitclaims, by matters of record as well as acts in pays, he would be estopped from asserting any right not derived from title subsequently acquired. And if the city can avoid the operation of that rule, it is only by pleading her state of tutelage. She must say to the plaintiff: "I have "repeatedly disclaimed any right to your land, in-"duced you by my acts to take it up, accepted the "legal title in trust for you, bound myself to con-"vey it to you on certain terms, and received your "money; but although I have acquired no new title, "I now may set up another claim because I am not "of age." It is believed that such a statement of disabilities would lead very promptly to their removal by legislative action.

Some stress has been laid, both in the pleading and these remarks, upon the fact that the plaintiff has paid the taxes assessed upon the land in controversy. There is more significance in this circumstance than the mind may perceive at first sight.

The earliest dedication of municipal lands was intended to provide municipal revenue.

The decree of Cortes which provided that these lands should be reduced to private ownership, reserved, in behalf of the municipalities, the right of imposing a yearly *canon* on certain portions of those lands.

The Governors of California, in granting specific portions to individuals, stipulated that they should be subject to such a municipal *canon* as might be established by law.

So did the captains of presidios, and the prefects, wherever and whenever they exercised the power of hastening the distribution of the common lands of towns in California.

And now, after many revolutions and changes of sovereignty, we find the same result arrived at by the acknowledgment of the rights of occupants, viz., lands, hitherto deemed untaxable, because of the tenure under which they were held, are brought within the reach of ordinary taxation. They bear their proper share of the public burdens. They subserve the very purposes for which they were dedicated.

I have hitherto scarcely made an allusion to the relation which would exist between the plaintiff and the other inhabitants of the city, in regard to the land in controversy, on the supposition that all the common lands are to be distributed share and share alike among all the inhabitants. And yet illustration of this kind is more suggestive than argument.

Say then that the plaintiff came to San Francisco on any given day since the change of sovereignty, in company with a partner, with whom, on landing, he agreed to dissolve the copartnership. The quondam partner invests his moiety of assets in some commercial pursuit which forces him to dwell in the more thickly settled portion of the city. The plaintiff selects a location at a distance from the centre, fences in a piece of land from which he is enabled to furnish first charcoal, afterwards milk and butter, and, finally, as his means of improvement increase, vegetables and fruit, to his former partner, as well as the other denizens of the mart. Through years of varying success the merchant and the farmer ply their several vocations. Shall the farmer now surrender a moiety of his possession to the merchant? Shall he further share with the adventurers who landed yesterday from Europe, Asia and Africa? With the children that were born this morning? And if, by the strong hand, we bind him down to that hard condition, he must, in yielding up the land, yield also, without compensation, that portion of its value which was due solely to his labor and even to the mere fact of his individual occupation.

If it be true, as charged, that the defendant, disregarding the rights, legal and equitable, of the plaintiff, is about to yield to a vain popular clamor, and to attempt some distribution of his spoils, not only unjust but wholly impracticable, through some scheme which can only result in riot and bloodshed and a general scramble for a precarious holding of land by force of arms—this Court will assert its high prerogative, and so bind, restrain, and enjoin the defendant, that the claims of the plaintiff shall be referred to the arbitrament of law instead of the caprice of certain classes of the community, who falsely claim to be the community, and are not even the multitude.

Or if it shall be deemed that, under the law as it stands, the plaintiff, however meritorious his case, is not entitled to the direct interposition of the equitable arm, for his protection—either because a statute is ambiguous, or because, from some unavoidable defect, the case presented is not within the acknowledged reach of the powers of the Court—there yet remains this hope to the plaintiff, that the Court will exercise a discretion often used, in advising the proper co-ordinate branch of the Government to sanction former enactments, declare their meaning, extend their provisions, and supply the Judiciary with efficient materials for adjudication in the future.

From the foregoing authorities, and from the facts set forth and commented upon, I derive and submit the following propositions:

I. In Spain the title to common lands of towns was in the Crown.

II. Sometimes by sufferance and sometimes by actual grant, a certain qualified interest vested in the municipalities.

II. Originally that interest might be defined thus: (leaving aside *propios* and *ejidos*) the lands were enjoyed and possessed in common by all the inhabitants of the town who had cattle or chose to gather their own firewood; but no inhabitant was to cultivate it. This interest endured so long as the Crown abstained from interference.

IV. For the towns in Spanish America a similar system was provided by special acts, every one of which asserts and reserves the right of eminent domain, yet provides for the granting in fee to individuals of specific portions.

V. Subsequently, the Crown, using its prerogative, declared that no lands should henceforward be held in common by the towns; but that the lands hitherto so held should be reduced to individual ownership; yet it neglected to provide regulations for such reduction.

VI. As regards the lands in controversy, the question stood as above stated, when Mexico succeeded to the rights of Spain, except that,

VII. Special regulations had been adopted for California, the aim of which was to draw population by all sorts of inducements, extending even to annual allowances of money to actual settlers.

VIII. Under Mexican rule, the claim of the towns of California to common lands was never distinctly recognized in a single instance, except that of Monterey, and even in that instance the prerogative of eminent domain was repeatedly exercised for the purpose of restricting and circumscribing the operation of a system which had been tried and found wanting in intrinsic merit.

IX. The unvarying policy of the government, supported by public opinion, favored the reduction of these lands to private ownership, and their distribution to such individuals as desired them.

X. Laws were passed to secure that object, and were only partially carried into effect for want of individual initiative.

XI. Actual bona fide possession constituted such a title to portions of lands so possessed, that, while the prerogative was exercised to the utmost as against the common interest, no instance can be cited where it interfered with the interest of the individual possessor.

XII. As regards the land in controversy, the question stood as above stated when the United States succeeded to the rights of Mexico; that is to say: all mankind stood invited to occupy and possess portions of the commons of the realm; all the inhabitants of particular towns stood invited to occupy and possess specific portions of the commons of these towns. To all comers a grant in fee was promised without money or price, and on the sole condition of occupation.

XIII. The plaintiff stood within those conditions; but no provision was made in his behalf until the Act of Congress of March 8th, 1866.

XIV. The Act of Congress is declaratory of the rights of the plaintiff under the laws, usages and customs of Mexico, and under the decree of this Court, entered May 18th, 1865.

XV. The Act of Congress, in giving power to the city to set apart and reserve certain portions for public uses, imposed a duty coextensive with that power.

XVI. That duty was fulfilled by the passage of Ordinance No. 733, and ordinances supplemental thereto, and may be further fulfilled by additional ordinances, until the power delegated by Congress shall have once been exercised over the whole subject matter of the trust, and no further.

XVII. As regards the tract in controversy, the City has exhausted its whole power, and it remains with the plaintiff to abide what regulations may be adopted by its officers as to any portions thereof which may be reserved for public uses, and what terms and conditions may be imposed by the Legislature of the State, the quantity to be confirmed to him being so much of the tract as shall not have been reserved for public uses under the Act of Congress and the ordinances.

Respectfully submitted,

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DELOS LAKE,
Of Counsel.

No better apology than that of a very hasty preparation can be offered for the want of all allusion to the cases of *Hare* ads. *United States* and *Townsend et al.* v. *Greeley*, in which very able opinions have been filed, which are claimed as authorities on behalf of the plaintiff.

Nothing has been said as to the source of the power exercised by municipal officers to make grants of town lands, a power which, to the superficial inquirer, seems inconsistent with the propositions above laid down. With the exception of an intimation in *Cohas* v. *Raisin*, our Courts have never, I believe, passed directly upon this point. Yet the materials for investigation are readily accessible (see Defendant's Argument in *Lick* v. *Diaz*, 4th District Court). This power was delegated by special enactment. In the case of Yerba Buena, it was withdrawn in 1839, and restored, with a limitation, in 1842.

26. 2.